



# भारत का राजपत्र

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सं. 1]

नई दिल्ली, दिसम्बर 31, 2017—जनवरी 6, 2018, शनिवार/ पौष 10—पौष 16, 1939

No. 1]

NEW DELHI, DECEMBER 31, 2017—JANUARY 6, 2018, SATURDAY/PAUSAH 10—PAUSAH 16, 1939

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृष्ठक संकलन के रूप में रखा जा सके।  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड ( ii )

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों ( रक्षा मंत्रालय को छोड़कर ) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं।

Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

विदेश मंत्रालय

( सी.पी.वी. प्रभाग )

नई दिल्ली, 28 दिसम्बर, 2017

का.आ.1.—राजनयिक और कोंसुलीय अधिकारी ( शपथ एवं फीस ) के अधिनियम, 1948 ( 1948 का 41 ) की धारा 2 के खंड ( क ) के अनुसरण में वैधानिक आदेश। एतद्वारा केंद्र सरकार भारत के प्रधान कोंसलावास, जेद्वाह में श्री सुखबीर सिंह, सहायक अनुभाग अधिकारी को दिनांक 28 दिसम्बर, 2017 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[ सं. टी-4330/01/2015 ]

प्रकाश चन्द, निदेशक ( कोंसुलर )

MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. DIVISION)

New Delhi, the 28th December, 2017

S.O. 1.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Sukhbir Singh, Assistant

Section Officers as Assistant Consular Officer in Consulate General of India, Jeddah to perform the Consular services with effect from 28th December, 2017.

[No. T-4330/01/2015]

PRAKASH CHAND, Director (Consular)

## पेट्रोलियम और प्राकृतिक गैस मंत्रालय

### संशोधन

नई दिल्ली, 28 दिसम्बर, 2017

**का.आ. 2.**—केंद्र सरकार, पेट्रोलियम और खनिज पापलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. एस.ओ. 1931(अ) दिनांक 03-08-2012 का आंशिक अध्ययन करते हुये श्रीमति भागवंती जेठवानी (आरएएस), भू-प्रबंध अधिकारी-कोटा को अपने पद के कार्य के साथ-साथ भारत पेट्रोलियम कार्पोरेशन लिमिटेड के, कोटा-जोबनेर उत्पाद पापलाइन के लिए राजस्थान के भीतर, बिना-कोटा उत्पाद पाइपलाइन के लिए मध्य प्रदेश और राजस्थान राज्यों के भीतर, और मुंबई-मनमाड-बिजवासन उत्पाद पापलाइन के लिए मध्य प्रदेश, राजस्थान, उत्तर प्रदेश, हरियाणा एवं दिल्ली राज्यों के भीतर, उक्त अधिनियम के तहत भूमि अवसि अधिकारी (सक्षम अधिकारी) कृत्यों का पालन करने के लिए प्राधिकृत करती है जिनका पदनाम “रजिस्ट्रार, एग्रीकल्चर युनिवर्सिटी कोटा के स्थान पर “सेटलमेंट अधिकारी” प्राधिकृत है।

[फा. सं. आर-12031/197/2017-ओआर-1/ई-21538]

पवन कुमार, अवर सचिव

## MINISTRY OF PETROLEUM AND NATURAL GAS

### AMENDMENT

New Delhi, the 28th December, 2017

**S.O. 2.**—In partial modification of notification of Government of India in the Ministry of Petroleum & Natural Gas S.O.1931(A), dated 9<sup>th</sup> July, 2015 and in pursuance of Clause (a) of Section 2 of The Petroleum & Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) The designation of Smt. Bhagwanti Jethwani (RAS) appointed to perform the functions of Competent Authority as an additional charge under the said Act, for Bharat Petroleum Corporation Limited's Kota-Jobner Product Pipeline in the State of Rajasthan, Bina-Kota Product Pipeline in the States of Madhya Pradesh & Rajasthan, and Mumbai-Manmad-Bijwasan Product Pipeline from Mangliya (Indore) to Bijwasan (Delhi) in the States of Madhya Pradesh, Rajasthan, Uttar Pradesh, Haryana & Delhi, may be read as “Settlement Officer” instead of Registrar, Agricultural University Kota.

[F. No. R-12031/197/2017-OR-I/E-21538]

PAWAN KUMAR, Under Secy.

### शुद्धि-पत्र

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 3.**—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र भाग II, खण्ड 3, उपखण्ड (ii) तारीख 08 फरवरी, 2017 में पृष्ठ 22 से पृष्ठ 24 तक प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 499 (अ) तारीख 16 फरवरी, 2017 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में :—

## अनुसूची

तहसील — वालिया

जिला — भरुच

राज्य — गुजरात

के स्थान पर			
मौजा / ग्राम	तहसील	मौजा / ग्राम	तहसील
दत्तनगर	वालिया	दत्तनगर	नेत्रंग
भेंसखेतर	वालिया	भेंसखेतर	नेत्रंग
पांचसीम	वालिया	पांचसीम	नेत्रंग
झरना	वालिया	झरना	नेत्रंग
चिखली	वालिया	चिखली	नेत्रंग
मौझा	वालिया	मौझा	नेत्रंग
कवाचीया	वालिया	कवाचीया	नेत्रंग

[फा. सं. आर-11025(11)/104/2017-ओआर-1/ई-8039]

पवन कुमार, अवर सचिव

## ERRATUM

New Delhi, the 1st January, 2018

**S.O. 3.**—In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S. O. 499 (E) dated 08<sup>th</sup> February, 2017, published at pages 26 to 28 in part II, section 3, sub-section (ii) of the Gazette of India, dated 16 February, 2017, namely:-

In the Schedule to the said notification:-

## SCHEDULE

Tehsil:- Valia

District:- Bharuch

State:- Gujarat

For			
Village Name	Tehsil	Village Name	Tehsil
Duttnagar	Valia	Duttnagar	Netrang
Bhenskhetar	Valia	Bhenskhetar	Netrang
Panchsim	Valia	Panchsim	Netrang
Zarna	Valia	Zarna	Netrang
Chikhali	Valia	Chikhali	Netrang
Mauza	Valia	Mauza	Netrang
Kavachia	Valia	Kavachia	Netrang

[F. No. R-11025(11)/104/2017-OR-I/E-8039]

PAWAN KUMAR, Under Secy.

## शुद्धि-पत्र

नई दिल्ली, 1 जनवरी, 2018

**का.आ.** 4.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत के राजपत्र भाग II, खण्ड 3, उपखण्ड (ii) तारीख 08 फरवरी, 2017 में पृष्ठ 10 से पृष्ठ 11 तक प्रकाशित भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना सं. का. आ. 498 (अ) तारीख 16 फरवरी, 2017 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना की अनुसूची में :—

## अनुसूची

के स्थान पर	जिला—भरुच	राज्य —गुजरात	
मौजा / ग्राम	तहसील	मौजा / ग्राम	तहसील
नवापुरा	झगड़िया	नवापुरा	नेत्रंग
कोलीवाडा	झगड़िया	कोलीवाडा	नेत्रंग

[फा. सं. आर-11025(11)/104/2017-ओआर-I/ई-8039]

पवन कुमार, अवर सचिव

## ERRATUM

New Delhi, the 1st January, 2018

**S.O. 4.**—In exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S. O. 498 (E) dated 08<sup>th</sup> February 2017, published at pages 20 to 21 in part II, section 3, sub-section (ii) of the Gazette of India, dated 16 February 2017, namely:—

In the Schedule to the said notification:—

## SCHEDULE

Tehsil:- Jhagdiya

District:- Bharuch

State:- Gujarat

For	Read		
Village Name	Tehsil	Village Name	Tehsil
Navapura	Jhagdiya	Navapura	Netrang
Kolivada	Jhagdiya	Kolivada	Netrang

[F. No. R-11025(11)/104/2017-OR-I/E-8039]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 2 जनवरी, 2018

**का.आ.** 5.—सार्वजनिक परिसर (अप्राधिकृत अधिभोगी की बेदखली) अधिनियम, 1971 (1971 का 40), की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करके और पेट्रोलियम और प्राकृतिक गैस मंत्रालय, भारत सरकार की दिनांक 20 मई, 2013 की अधिसूचना संख्या का.आ. 1030 के अधिक्रमण में ऐसे अधिक्रमण से पहले किए गए मामलों या लोप किए जाने वाले मामलों को छोड़कर, केंद्रीय

सरकार एतद्वारा भारत पेट्रोलियम कार्पोरेशन लि. के अधिकारी होने के कारण, नीचे सारणी के स्तंभ (2) में उल्लिखित अधिकारियों को उक्त अधिनियम के प्रयोजनार्थ सम्पदा अधिकारी नियुक्त करती है, जो प्रदत्त शक्तियों का प्रयोग करेंगे और उक्त अधिनियम के द्वारा या उसके अधीन सौंपे गए कर्तव्यों का निर्वहन, उक्त सारणी के स्तंभ (3) में विनिर्दिष्ट सार्वजनिक परिसरों के संबंध में अपने क्षेत्राधिकार की सीमाओं के भीतर करेंगे, अर्थात् :-

### सारणी

क्रम सं.	अधिकारी का पदनाम	सार्वजनिक परिसरों की श्रेणियां और क्षेत्राधिकार की स्थानीय सीमाएं
(1)	(2)	(3)
1.	मुख्य महा प्रबंधक (मानव संसाधन), महा प्रबंधक (मानव संसाधन) और भारत पेट्रोलियम कार्पोरेशन लि. की मुंबई रिफाइनरी में उप महा प्रबंधक (मानव संसाधन)	भारत पेट्रोलियम कार्पोरेशन लि., मुंबई रिफाइनरी, माहूल, मुंबई 400074, महाराष्ट्र में प्रशासनिक नियंत्रणाधीन समस्त भारत के परिसर।
2.	भारत पेट्रोलियम कार्पोरेशन लि. की कोच्चि रिफाइनरी में मुख्य महा प्रबंधक (मानव संसाधन), महा प्रबंधक (मानव संसाधन) और उप महा प्रबंधक (मानव संसाधन)	भारत पेट्रोलियम कार्पोरेशन लि. कोच्चि रिफाइनरी, अम्बालामुगल, एनाकुलम 682302, केरल के प्रशासनिक नियंत्रणाधीन समूचे भारत के परिसर
3.	भारत पेट्रोलियम कार्पोरेशन लि. के अध्यक्ष कार्यालय में महा प्रबंधक, प्रशासन, इंजीनियरी और रियल इस्टेट (मानव संसाधन सेवाएं)	मुंबई रिफाइनरी और कोच्चि रिफाइनरी के प्रशासनिक नियंत्रणाधीन परिसरों को छोड़कर, भारत पेट्रोलियम कार्पोरेशन लि. पंजीकृत कार्यालय और अध्यक्ष कार्यालय, मुंबई के मानव संसाधन विभाग के प्रशासनिक नियंत्रणाधीन समूचे भारत के परिसर
4.	मुंबई, दिल्ली, कोलकाता और चेन्नै में भारत पेट्रोलियम कार्पोरेशन लि. के क्षेत्रीय कार्यालयों में महा प्रबंधक (मानव संसाधन सेवाएं), उप महा प्रबंधक (मानव संसाधन सेवाएं) और मुख्य प्रबंधक (मानव संसाधन सेवाएं)	भारत पेट्रोलियम कार्पोरेशन लि. के मुंबई, दिल्ली, कोलकाता और चेन्नै के संबंधित क्षेत्रीय कार्यालयों में मानव संसाधन विभाग के प्रशासनिक नियंत्रणाधीन समूचे भारत के परिसर
5.	भारत पेट्रोलियम कार्पोरेशन लि., मुंबई के अध्यक्ष के कार्यालय में मुख्य महा प्रबंधक (विधि), महा प्रबंधक (विधि), उप महा प्रबंधक (विधि), मुख्य प्रबंधक (विधि), वरिष्ठ प्रबंधक (विधि) और प्रबंधक (विधि)	भारत पेट्रोलियम कार्पोरेशन लि., मुंबई स्थित पंजीकृत कार्यालय और अध्यक्ष कार्यालय के प्रशासनिक नियंत्रणाधीन समूचे भारत के परिसर।
6.	मुंबई, दिल्ली, कोलकाता और चेन्नै में भारत पेट्रोलियम कार्पोरेशन लि. के क्षेत्रीय कार्यालयों में महा प्रबंधक (विधि), उप महा प्रबंधक (विधि), मुख्य प्रबंधक (विधि), वरिष्ठ प्रबंध (विधि), प्रबंधक (विधि) और सहायक प्रबंधक (विधि)।	मुंबई, दिल्ली, कोलकाता और चेन्नै में भारत पेट्रोलियम कार्पोरेशन लि. के संबंधित क्षेत्रीय कार्यालयों के प्रशासनिक नियंत्रणाधीन परिसर।
7.	भारत पेट्रोलियम कार्पोरेशन लि. के राज्य स्थित कार्यालयों में राज्य प्रमुख (रिटेल)।	भारत पेट्रोलियम कार्पोरेशन लि. के संबंधित राज्य कार्यालयों के प्रशासनिक नियंत्रणाधीन परिसर।

New Delhi, the 2nd January, 2018

**S.O. 5.**— In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), and in supersession of the notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O. 1030, dated the 20<sup>th</sup> May, 2013, except as respects things done or omitted to be done before such supersession, the Central Government hereby appoints the officers mentioned in column (2) of the Table below, being officers of Bharat Petroleum Corporation Limited, to be the estate officers for the purposes of the said Act, who shall exercise the powers conferred and perform the duties imposed on an estate officer by or under the said Act, within the limits of their jurisdiction, in respect of the public premises specified in column (3) of the said Table, namely:—

**TABLE**

S. No.	Designation of Officer	Categories of public premises and local limits of jurisdiction
(1)	(2)	(3)
1	Chief General Manager (Human Resource), General Manager (Human Resource) and Deputy General Manager (Human Resource), at Mumbai Refinery of Bharat Petroleum Corporation Limited.	Premises in the whole of India under administrative control of Bharat Petroleum Corporation Limited, Mumbai Refinery, Mahul, Mumbai 400074, Maharashtra.
2	Chief General Manager (Human Resource), General Manager (Human Resource) and Deputy General Manager (Human Resource), at Kochi Refinery of Bharat Petroleum Corporation Limited.	Premises in the whole of India under administrative control of Bharat Petroleum Corporation Limited, Kochi Refinery, Ambalamugal, Ernakulam 682 302, Kerala.
3	General Manager, Administration, Engineering and Real Estate (Human Resource Services) at Chairman Office of Bharat Petroleum Corporation Limited.	Premises in the whole of India under administrative control of Human Resource Department of the Bharat Petroleum Corporation Limited, registered office and Chairman office at Mumbai, except premises under the administrative control of the Mumbai Refinery and Kochi Refinery.
4	General Manager (Human Resource Services), Deputy General Manager (Human Resource Services) and Chief Manager (Human Resource Services), in the regional offices of the Bharat Petroleum Corporation Limited at Mumbai, Delhi, Kolkata and Chennai.	Premises under the administrative control of Human Resource Department in the respective regional offices of the Bharat Petroleum Corporation Limited at Mumbai, Delhi, Kolkata and Chennai.
5	Chief General Manager (Legal), General Manager (Legal), Deputy General Manager (Legal), Chief Manager (Legal), Senior Manager (Legal) and Manager (Legal) at Chairman office of the Bharat Petroleum Corporation Limited, Mumbai.	Premises in the whole of India under the administrative control of the Bharat Petroleum Corporation Limited, registered office and Chairman office at Mumbai.
6	General Manager (Legal), Deputy General Manager (Legal), Chief Manager (Legal), Senior Manager (Legal), Manager (Legal) and Assistant Manager (Legal) in the regional offices of the Bharat Petroleum Corporation Limited at Mumbai, Delhi, Kolkata and Chennai.	Premises under the administrative control of the respective Regional Offices of the Bharat Petroleum Corporation Limited at Mumbai, Delhi, Kolkata and Chennai.
7	State Head (Retail) in the State offices of the Bharat Petroleum Corporation Limited.	Premises under the administrative control of the respective State offices of the Bharat Petroleum Corporation Limited.

[F. No. R-42024/118/2011-MC]

VINAY KUMAR, Under Secy.

## कोयला मंत्रालय

नई दिल्ली, 2 जनवरी, 2018

**का.आ.** 6.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 4 की उप-धारा (1) के अधीन भारत सरकार में कोयला मंत्रालय के द्वारा जारी की गई अधिसूचना संख्या का. आ. 2702(अ), तारीख 9 अगस्त, 2016 जो भारत के राजपत्र, असाधारण, भाग II, खण्ड 3, उप-खण्ड (ii), तारीख 12 अगस्त, 2016 में प्रकाशित की गई थी, उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट परिक्षेत्र की भूमि में जिसका माप 481.711 हेक्टर (लगभग) या 1190.31 एकड़ (लगभग) है, कोयले का पूर्वक्षण करने के अपने आशय की सूचना दी थी;

और केन्द्रीय सरकार का यह समाधान हो गया है कि इस अधिसूचना में संलग्न अनुसूची में विहित की गई उक्त भूमि के भाग में कोयला अभिप्राप्य है;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए इससे संलग्न अनुसूची में वर्णित 427.993 हेक्टर (लगभग) या 1057.57 एकड़ (लगभग) माप की उक्त भूमि का अर्जन करने के अपने आशय की सूचना देती है।

**टिप्पण 1 :** इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक संख्या एसईसीएल/बीएसपी/जीएम/(पीएलजी)/भूमि/519, तारीख 8 नवम्बर, 2017 का निरीक्षण, कलेक्टर, जिला – अनुपपुर (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता – 700001 के कार्यालय में या सारथ ईस्टर्न कोलफील्ड्स लिमिटेड, (राजस्व अनुभाग) सीपट रोड, बिलासपुर-495006 (छत्तीसगढ़) के कार्यालय में किया जा सकता है।

**टिप्पण 2 :** उक्त अधिनियम की धारा 8 के उपबंधों की ओर ध्यान आकृष्ट किया जाता है, जिसमें निम्नलिखित उपबंध हैं:—

“8. अर्जन के बाबत आपत्तियाँ.— (1) कोई व्यक्ति जो किसी भूमि में जिसकी बाबत धारा 7 के अधीन अधिसूचना निकाली गई है, हितबद्ध है, अधिसूचना के निकाले जाने से तीस दिन के भीतर सम्पूर्ण भूमि या उसके किसी भाग या ऐसी भूमि में या उस पर के किन्हीं अधिकारों का अर्जन किए जाने के बारे में आपत्ति कर सकेगा।

**स्पष्टीकरण.—** इस धारा के अन्तर्गत यह आपत्ति नहीं मानी जाएगी कि कोई व्यक्ति किसी भूमि में कोयला उत्पादन के लिए स्वयं खनन संक्रियाएं करना चाहता है और ऐसी संक्रियाएं केन्द्रीय सरकार या किसी अन्य व्यक्ति को नहीं करनी चाहिए।

(2) उप-धारा (1) के अधीन प्रत्येक आपत्ति सक्षम अधिकारी को लिखित रूप में की जाएगी और सक्षम अधिकारी, आपत्तिकर्ता को स्वयं सुने जाने, विधि व्यवसायी द्वारा सुनवाई का अवसर देगा और ऐसी सभी आपत्तियों को सुनने के पश्चात् और ऐसी अतिरिक्त जॉच, यदि कोई हो, करने के पश्चात्, जो वह आवश्यक समझता है, वह या तो धारा 7 की उप-धारा (1) के अधीन अधिसूचित भूमि का या ऐसी भूमि में या उस पर के अधिकारों के संबंध में एक रिपोर्ट या ऐसी भूमि के विभिन्न टुकड़े या ऐसी भूमि में या उस पर के अधिकारों के संबंध में आपत्तियों पर अपनी सिफारिशों और उसके द्वारा की गई कार्यवाही के अभिलेख सहित विभिन्न रिपोर्ट केन्द्रीय सरकार को उसके विनिश्चय के लिए देगा।

(3) इस धारा के प्रयोजनों के लिए वह व्यक्ति किसी भूमि में हितबद्ध समझा जाएगा जो प्रतिकर में हित का दावा करने का हकदार होगा, यदि भूमि या किसी ऐसी भूमि में या उस पर के अधिकार इस अधिनियम के अधीन अर्जित कर लिए जाते हैं।

**टिप्पण 3:** केन्द्रीय सरकार ने कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कोलकाता-700001 को उक्त अधिनियम की धारा 3 के अधीन, अधिसूचना संख्या का.आ. 905, तारीख 20 मार्च, 1987, जो भारत के राजपत्र, भाग II, खण्ड 3, उप-खण्ड (ii) में तारीख 4 अप्रैल, 1987 में प्रकाशित की गई थी, सक्षम प्राधिकारी नियुक्त किया है।

## अनुसूची

झिरिया पश्चिम ओसोपी, हसदेव क्षेत्र

जिला—अनुपपुर, मध्य प्रदेश

(रेखांक संख्या—एसईसीएल/बीएसपी/जीएम/(पीएलजी)/भूमि/519, तारीख 8 नवम्बर, 2017)

## सभी अधिकार:

## (क) राजस्व भूमि:

क्रम सं.	ग्राम का नाम	पटवारी हल्का संख्या	जनरल संख्या	तहसील	जिला	क्षेत्र हेक्टर में	टिप्पणियां
1.	भलमुडी	225	52	कोतमा	अनुपपुर	97.656	भाग
2.	फुलकोना	229	55	कोतमा	अनुपपुर	9.820	भाग

3.	बनगवॉ	224	51	कोतमा	अनुपपुर	1.152	भाग
4.	पडरीटोला	222	50	कोतमा	अनुपपुर	0.950	भाग
कुल : 109.578 हेक्टर (लगभग) या 270.77 एकड़ (लगभग)							

## (ख) वन भूमि:

क्रम सं.	वन का नाम	कम्पार्टमेंट संख्या	रेंज	डिविजन	क्षेत्र हेक्टर में	टिप्पणियां
1.	मलगा आरक्षित वन	496(भाग), पी498(भाग), पी494(भाग), 488(भाग), पी492(भाग), 502(भाग)	कोतमा	अनुपपुर	318.415	भाग
कुल : 318.415 हेक्टर (लगभग) या 786.80 एकड़ (लगभग)						

कुल योग (क+ख): 427.993 हेक्टर (लगभग)

या 1057.57 एकड़ (लगभग)

- ग्राम भलमुडी (भाग) में अर्जित किए जाने वाले प्लाट संख्या: 5/1(भाग), 5/2(भाग), 6 से 8, 9(भाग), 10 से 12, 13(भाग), 18(भाग), 20 से 22, 23(भाग), 24 से 28, 29(भाग), 56(भाग), 60(भाग), 61(भाग) से 63(भाग), 73(भाग) से 75(भाग), 76 से 116, 117(भाग), 118, 119(भाग), 121(भाग), 122(भाग), 123 से 132, 133(भाग), 136(भाग), 137 से 148, 149(भाग), 150 से 156.
- ग्राम फुलकोना (भाग) में अर्जित किए जाने वाले प्लाट संख्या: 1186(भाग), 1187(भाग), 1188(भाग), 1189(भाग), 1288(भाग), 1289 से 1292, 1293(भाग), 1294(भाग) से 1296(भाग), 1297.
- ग्राम बनगवॉ (भाग) में अर्जित किए जाने वाले प्लाट संख्या: 154(भाग), 156(भाग), 157(भाग), 160(भाग), 161, 164(भाग), 175(भाग), 176(भाग).
- ग्राम पडरीटोला (भाग) में अर्जित किए जाने वाले प्लाट संख्या: 174(भाग).

## सीमा वर्णन :

- क—ख रेखा बिन्दु "क" से आरंभ होती है और ग्राम डुमरकछार—बनगवॉ के भागतः सम्मिलित सीमा, प्लाट संख्या 176, 175, ग्राम भलमुडी—बनगवॉ के भागतः सम्मिलित सीमा से होती हुई बिन्दु "ख" पर मिलती है।
- ख—ग रेखा बिन्दु "ख" से आरंभ होती है और ग्राम भलमुडी के प्लाट संख्या 136, 133, 117, 121, 122, 119, 117, 73, 74, 75, 63, 29, 60/3, 62, 61, 60/1 से होती हुई बिन्दु "ग" पर मिलती है।
- ग—घ रेखा, बिन्दु "ग" से आरंभ होती है और ग्राम बनगवॉ के प्लाट संख्या 156, 157, 160, 164, 154 से होकर ग्राम पडरीटोला में प्रवे । कर प्लाट संख्या 174 से गुजरती हुई बिन्दु "घ" पर मिलती है।
- घ—ड रेखा, बिन्दु "घ" से आरंभ होती है और ग्राम पडरीटोला के प्लाट संख्या 174 से होकर ग्राम बनगवॉ में प्रवे । करती है और प्लाट संख्या 154, 164, 160, 157, 156 से होकर ग्राम भलमुडी में प्रवे । करती है और प्लाट संख्या 60/1, 56/2, 56/1, 60/1, 60/3, 29, 23, 5/2, 5/1, 9, 13, 18 से होती हुई बिन्दु "ड" पर मिलती है।
- ड—च रेखा, बिन्दु "ड" से आरंभ होती है और ग्राम फुलकोना के प्लाट संख्या 1186, 1187, 1188, 1189, 1288 से होती हुई बिन्दु "च" पर मिलती है।
- च—छ रेखा, बिन्दु "च" से आरंभ होती है और ग्राम फुलकोना के प्लाट संख्या 1297 के दक्षिणी सीमा, 1296, 1295, 1294, 1292, 1293 से होती हुई बिन्दु "छ" पर मिलती है।
- छ—क रेखा, बिन्दु "छ" से आरंभ होती है और ग्राम डुमरकछार के प्लाट संख्या 2, 1 से गुजरती हुई आरंभिक बिन्दु "क" पर मिलती है।

[फा. सं. 43015/41/2017 — एलए एण्ड आईआर]

आर. एस. सरोज, अवर सचिव

## MINISTRY OF COAL

New Delhi, the 2nd January, 2018

**S.O. 6.**—Whereas by the notification of the Government of India in the Ministry of Coal number S.O. 2702(E), dated the 9<sup>th</sup> August, 2016 issued under sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 or 1957) (hereinafter referred to as the said Act) and published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 12<sup>th</sup> August, 2016, the Central Government gave notice of its intention to prospect for coal in 481.711 hectares (approximately) or 1190.31 acres (approximately) of the lands in the locality specified in the Schedule annexed to that notification;

And whereas the Central Government is satisfied that coal is obtainable in a part of the said lands prescribed in the Schedule appended to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act, the Central Government hereby gives notice of its intention to acquire the land measuring 427.993 hectares (approximately) or 1057.57 acres (approximately) as all rights in or over the said lands described in the Schedule appended hereto.

**Note1:** The plan bearing number SECL/ BSP/ GM/(PLG)/ LAND/ 519, dated the 8<sup>th</sup> November, 2017 of the area covered by this notification may be inspected in the office of the Collector, District Anuppur (Madhya Pradesh) or in the office of the Coal Controller, 1, Council House Street, Kolkata - 700001 or in the office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495006 (Chhattisgarh).

**Note 2:** Attention is hereby invited to the provisions of section 8 of the said Act which provides as follows:—

**“8. Objection to Acquisition.—** (1) Any person interested in any land in respect of which a notification under section 7 has been issued, may, within thirty days of the issue of the notification, object to the acquisition of the whole or any part of the land or any rights in or over such land.

**Explanation.—** It shall not be an objection within the meaning of this section for any person to say that he himself desires to undertake mining operation in the land for the production of coal and that such operation should not be undertaken by the Central Government or by any other person.

(2) Every objection under sub-section (1) shall be made to the competent authority in writing, and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either makes a report in respect of the land which has been notified under sub-section (1) of section 7 or of rights in or over such land, or make different reports in respect of different parcels of such land or of rights in or over such land, to the Central Government, containing his recommendations on the objections, together with the record of the proceedings held by him, for the decision of that Government.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land or any rights in or over such land were acquired under this Act”.

**Note 3:** The Coal Controller, 1, Council House Street, Kolkata-700001, has been appointed by the Central Government as the competent authority under section 3 of the said Act, vide notification number S.O. 905, dated the 20<sup>th</sup> March, 1987, published in part II, section 3, sub-section (ii) of the Gazette of India, dated the 4<sup>th</sup> April, 1987.

## SCHEDE

Jhiria West OCP, Hasdeo Area

District Anuppur, Madhya Pradesh

(Plan bearing number SECL/BSP/GM/(PLG)/LAND/ 519, dated the 8<sup>th</sup> November, 2017)**All rights:****(A) Revenue land:**

Sl. No.	Name of village	General number	Patwari halka number	Tahsil	District	Area in hectares	Remarks
1.	Bhalmudi	225	52	Kotma	Anuppur	97.656	Part
2.	Fulkona	229	55	Kotma	Anuppur	9.820	Part

3.	Bangawan	224	51	Kotma	Anuppur	1.152	Part
4.	Padritola	222	50	Kotma	Anuppur	0.950	Part
Total: - 109.578 hectares (approximately) or 270.77 acres (approximately)							

**(B) Forest land:**

Sl. No.	Name of Forest	Compartment number	Range	Division	Area in hectares	Remarks
1.	Malga Reserve Forest	496(Part), P498(Part), P494(Part), 488(Part), P492(Part), 502(Part)	Kotma	Anuppur	318.415	Part
Total: - 318.415 hectares (approximately) or 786.80 acres (approximately)						

Grand Total (A+B): 427.993 hectares (approximately)

or 1057.57 acres (approximately)

1. Plot numbers to be acquired in village Bhalmudi (Part): 5/1(P), 5/2(P), 6 to 8, 9(P), 10 to 12, 13(P), 18(P), 20 to 22, 23(P), 24 to 28, 29(P), 56(P), 60(P), 61(P) to 63(P), 73(P) to 75(P), 76 to 116, 117(P), 118, 119(P), 121(P), 122(P), 123 to 132, 133(P), 136(P), 137 to 148, 149(P), 150 to 156.
2. Plot numbers to be acquired in village Fulkona (Part): 1186(P), 1187(P), 1188(P), 1189(P), 1288(P), 1289 to 1292, 1293(P), 1294(P) to 1296(P), 1297.
3. Plot numbers to be acquired in village Bangawa (Part): 154(P), 156(P), 157(P), 160(P), 161, 164(P), 175(P), 176(P).
4. Plot numbers to be acquired in village Padritola (Part): 174(P).

**Boundary description:**

- A-B Line starts from point 'A' and passes along partly common boundary of villages Dumarkhchhar-Bangawan, through plot number 176, 175, along partly common boundary of villages Bhalmudi-Bangawan and meets at point 'B'.
- B-C Line starts from point 'B' and passes in village Bhalmudi through plot number 136, 133, 117, 121, 122, 119, 117, 73, 74, 75, 63, 29, 60/3, 62, 61, 60/1 and meets at point 'C'.
- C-D Line starts from point 'C' and passes in village Bangawan through plot number 156, 157, 160, 164, 154 and enter in village Padritola and passes through plot number 174 and meets at point 'D'.
- D-E Line starts from point 'D' and passes in village Padritola through plot number 174 then enter in village Bangawan and passes through plot number 154, 164, 160, 157, 156 then enter in village Bhalmudi and passes through plot number 60/1, 56/2, 56/1, 60/1, 60/3, 29, 23, 5/2, 5/1, 9, 13, 18 and meets at point 'E'.
- E-F Line starts from point 'E' and passes in village Fulkona through plot number 1186, 1187, 1188, 1189, 1288 and meets at point 'F'.
- F-G Line starts from point 'F' and passes in village Fulkona along southern boundary of plot number 1297, through plot number 1296, 1295, 1294, 1292, 1293 and meets at point 'G'.
- G-A Line starts from point 'G' and passes in village Dumarkachhar through plot number 2, 1 and meets at starting point 'A'.

[F. No. 43015/41/2017-LA&IR]

R. S. SAROJ, Under Secy.

## श्रम और रोजगार मंत्रालय

नई दिल्ली, 26 दिसम्बर, 2017

**का.आ. 7.**—राष्ट्रपति केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, हैदराबाद के पीठासीन अधिकारी, श्री मुरलीधर प्रधान को 05.12.2017 से द्व्यामा की अवधि के लिए या पद को नियमित आधार पर भरे जाने तक या अगले आदेशों तक, इनमें से जो भी पहले हो, तब तक केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, बंगलुरु के पीठासीन अधिकारी के पद का अतिरिक्त प्रभार सौंपते हैं।

[सं. ए-11016/03/2015-सीएलएस-II]

अजय मलिक, अवर सचिव

## MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 26th December, 2017

**S.O. 7.**—The President is pleased to entrust the additional charge of the post of Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Bangalore to Shri Murlidhar Pradhan, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Hyderabad for a period of six months with effect from 05.12.2017 or till the post is filled on regular basis or until further orders, whichever is the earliest.

[No. A-11016/03/2015-CLS-II]

AJAY MALIK, Under Secy.

नई दिल्ली, 27 दिसम्बर, 2017

**का.आ. 8.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार काकरापार परमाणु ऊर्जा संयंत्र सूरत के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 117/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.12.2017 को प्राप्त हुआ था।

[सं. एल-42012/45/2005-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th December, 2017

**S.O. 8.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 117/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Kakrapar Atomic Power Station, Surat and their workmen, received by the Central Government on 20.12.2017.

[No. L-42012/45/2005-IR (CM-II)]

RAJENDER SINGH, Section Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
AHMEDABAD

## Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 21<sup>st</sup> November, 2017

**Reference (CGITA) No. 117/2005**  
**in**  
**Reference (ITC) No. 170/2009**  
**In**  
**Reference (ITC) No. 1357/2008**

The Station Director,  
 Kakrapar Atomic Power Station,  
 Nuclear Power Corporation of India Ltd.,  
 Anumala Ta. Vyara,  
 Surat (Gujarat)

...First Party

**V/s**

The Secretary,  
 Kakrapar Tribal Workers Association,  
 Devani Falia, Vyara,  
 Surat (Gujarat)

...Second Party

For the Second Party : Shri Umesh Mishra, Advocate

For the First Party : Shri K.V. Gadhia & M.K. Patel Advocates

**AWARD**

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/45/2005-IR(CM-II) dated 06.12.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

**SCHEDELE**

“Whether the demand of the Kakrapar Tribal Workers Association for treating the workmen Sh. Dolatsingh Vasanjibhai Gamit & 80 Ors. (list enclosed) as ‘direct workmen’ of the Kakrapar Atomic Power Station from the date of their joining and regularization / absorption in the organization is legal, proper and justified? If so, what relief these concerned 81 workmen are entitled to and from which date?

1. The reference dates back to 06.12.2005. After receipt of the Terms of Reference from the Ministry, the Tribunal issued notices to the respective parties and both the first party, hereinafter referred to as First Party and Second Parties, hereinafter referred to as second party put in their appearance in the matter.

2. The second party i.e. Kakrapar Power Station Labour Union filed its Statement of Claims vide Ex-6 on behalf of its all concerned 80 workmen vide Exh.-7 along with application of Interim Relief. In the Statement of Claims, the second party has alleged that the first party is Central Government Undertaking and engaged in production of electricity and related activities. It is further alleged that they worked through contractor. It is noteworthy that the said Contractor has not impleaded as party in the reference. They have further alleged that the employees whose names are shown in the list annexed with the terms of reference have been performing the duties doing the work of housekeeping and radiation decontamination, protective clothing and equipments management, rubber station; cap folding, seench anchoring, plumbing, carpeting and PTP Clinic etc. They have further alleged that they have been doing the said work as per the direction of the officers of the Company. They have further alleged that the contractors are on paper only and in fact the concerned persons are the direct employees of the first party. It is also alleged that the contract between the first party and contractor is sham and bogus and that the first party has been using unfair labour practice while engaging employees. They have also alleged that they have been working under direct control and supervision of the officers of the first party. Second party has raised the grievance before the first parties that the contractors have not been giving the appointment letter, attendance card, wage slip etc. They have further that they have not been issued any appointment letter, termination letter or transfer letter. They have also alleged that before the year 1999, they were provided the work for whole month but as they have filed cases against the first party, the First party now provides them work for 11 days in a month. They have claimed status of direct employees of the first party and claimed pay parity and other consequential benefits as if they are the permanent employees of the first party. Along with the statement of claims they have also enclosed the Schedule -I which shows the contractors name and service period of the workmen. By way of application for interim relief vide Exh.-7 they prayed to restrain first party to terminate their services without following due process of law and also prayed that they should be provided work for whole month instead of part of month in each month and to pay the salary accordingly etc.

3. The First Party also filed consolidated Written Statement vide Ex.-10 in reply to Statement of Claims and Interim Relief application and submitted that the terms of reference are vague, reference is required to be dismissed on the ground of non-joinder of necessary party and as well as of mis-joinder of party. The First party has also denied all the averments made in the Statement of Claims. The first party has further submitted that the reference is not maintainable as first party is not an Industry as defined u/s 2(j) and second party are not ‘workmen’ as defined u/s 2(s)

and no industrial dispute exists as defined u/s 2(k) of the I.D. Act. The first party has further stated that the reference is required to be dismissed on the ground of suppression of material facts as the second party has not disclosed any information about the previous litigations.

4. Over and above the first party has also taken a preliminary objection in para-9 of the written statement that the I.R. Application is not maintainable as there is no relation of Master and servant exists between the first party and the second party. The First party has taken another objection that the Application is not maintainable for non-joinder of necessary party i.e. the Contractor-employer. The first party has also averred that the matters related to appointment, termination, and conditions of service which are the prerogative of the contractor and the first party has not say in the said matter. On the basis of these aforesaid preliminary objections, the first party has prayed for rejection of the reference.

5. The First party has further submitted that the contractor under whom the Second Party contract labourers have been working namely M/s. All Services under 1 roof (India) Pvt. Ltd., Mumbai, has been engaged by First Party KAPS for the contract works of Material handling and regular maintenance of plant buildings for inner and outer areas of inside operating island during the year 2006-07 and the same contractor is awarded contract for the period from July 2008 to June 2010.

6. The First Party in his written statement has also given brief historical background of its formation and operations. It is also submitted that it is registered as Principal Employer under the CLRA, 1970 and is issuing contracts after tender process for various jobs of casual, sporadic and intermittent nature. The eligible contractors are also taking License under the CLRA and are complying with all the provisions of the CLRA, 1970.

7. The First party has also narrated the earlier proceedings which union had filed against the first party. It was submitted that the Second party no.1 had filed a petition before the Hon'ble Central Administrative Tribunal (CAT), Ahmedabad, hereinafter referred to as CAT, praying for regularization/absorption in Kakrapar Atomic Power Station/NPCIL as 'Direct Workmen'. The said petition was dismissed as withdrawn vide order dated 26.12.96., as it was held that the CAT had no jurisdiction to entertain the same. Subsequently, these issues were also challenged and contested by the Second party no.1 Contract Labourers before the Hon'ble High Court of Gujarat by filing several Writ petitions on the same issue which were finally dismissed by a common order dated 24.7.1997.

8. The Second party no.1 Contract Labourers also approached the appropriate Government u/s. 10(1) of the Contract Labour (R & A) Act, 1970. On such application, the 'Central Advisory Contract Labour Board', hereinafter referred to as CACLB, constituted a three-member committee to examine the question of 'abolition of contract labour' in the establishment of First Party KAPS vide its Resolution dated 08.01.1998. The said committee visited First Party KAPS and discussed the matter with the First Party KAPS Management, Second party - Contract Labourers and their representatives. The committee examined the work handled by the Second party no.1 contract labourers in the Plant Site and Township of First Party. The committee found that the works handled by the Contractors through Second party contract labourers are not jobs of '**perennial nature**' but are in the nature of '**intermittent and casual**' only. Based on these findings, the committee had recommended vide their Recommendations dated 23.03.1998 that "*house Keeping/Helpers in plant area, the Management of KAPS, Kakrapar, Surat District, should be advised to pay the contract labourers employed inside the plant for activities such as House Keeping and material handling (Basic + DA) equal amount to the lowest paid departmental employee....*" These Recommendations have been accepted by the Appropriate Government vide its order dated 16.12.1998. In pursuance to the said order, the Second party contract labourers engaged by the contractors in First Party KAPS are being paid the said special wages by the contractor in accordance with the order passed by the appropriate Government. The Second party also challenged the said order dated 16.12.1998 before the Hon'ble High Court of Gujarat by filing several Special Civil applications (Writ petitions). The Hon'ble High Court dismissed these Special Civil Applications vide its order dated 09.10.2001 and upheld the order of the Appropriate Govt. Thereafter, the Second party no.1 contract labourers preferred M.C.A. No. 2807 of 2002 in the aforesaid Special Civil Application, which was also dismissed as withdrawn by the Hon'ble High Court by its order dated 01.12.2003. Thus, the order passed by the Appropriate Government dated 16.12.1998 was upheld and confirmed by the Hon'ble High Court of Gujarat at Ahmedabad by its order dated 9/10/2001 and the same is final and binding on both the parties as res judicata.

9. The First party further submitted that the CACLB – Committee had in explicit terms refused to abolish the Contract Labour in the First Party establishment after considering all the aspects of working of the first party organization and hence the Second party cannot be said to be entitled to regularization.

10. It is also submitted that the Union filed 4 Reference case being Ref. 115, 116, 117 & 120/2005 seeking same relief and the Second party Union also filed 461 Recovery Applications claiming various dues. It is noteworthy that, rest of the 3 references except the present reference and 61 Recovery Applications were dismissed during the pendency of the present Reference.

11. The First Party has, in view of the above said facts, suppression of material facts prayed for rejection of Reference as not maintainable and also on the ground that the same is barred by Principles of Res-judicata.

12. The Second party has during the pendency of the reference filed two more IR Applications vide Ex.-19 and Ex.-29 beside application Ex.-7earlier moved by the second party. Against the said Interim Relief Applications the First party also filed its replies vide Ex.-23, 30 and 10 respectively. After hearing the parties the Hon'ble Tribunal passed common order vide its order Ex.-31 on all the interim relief applications which were filed by the second party whereby the Tribunal has directed the first party not to change their service conditions till final disposal of the reference and to maintain status quo. Thus on account of protection granted, workmen were permitted to continue in job.

13. It is also noticed that during the pendency of the reference the second party has moved an application for amendment of Statement of Claims vide Exh.-15 which was objected by the First Party vide Reply Exh.-17 but this Tribunal has allowed the amendment application. After the amendment the first party filed amended written statement vide Ex-25. The second party filed documents vide Ex.-8, 16, 33 & 36 whereas the first party also filed the documents vide Exh.-11 & 39.

14. It is also noticed that earlier the I.R. Application was decided in favour of the second party whereby the tribunal directed the first party not to terminate the concerned persons. The same was challenged before the Hon'ble High Court and considering the nature of the dispute etc. the same was upheld by the High Court as its Division Bench, considering all aspects decided that the concerned persons will not be terminated during the pendency of the Reference.

15. The second party has examined two witnesses namely Mohanbhai and Kiritbhai vide Exh-34 and 35. The first party also examined one witness Ms. Sujaya Kujur vide Ex.-38. Lastly the Second party has given written submissions in the matter and First party has also given the same on 19/07/2017.

16. Now considering the above pleadings, evidences and the terms of reference, the following issues arise for consideration of this Tribunal:

- i. Whether the Reference is barred by the principle of res-judicata?
- ii. Whether the concerned workmen are working directly under the supervision and control of the first party since the date of their initial joining?
- iii. Whether they are working on the permanent set up and are entitled to seek regularization and other benefits as claimed for?

**Issue (i, ii & iii):**

16.1 As all the issues are interconnected, therefore all these issues are discussed and decided together. As the facts have been discussed in detail earlier, the same are not reiterated herein again. As far as the case of the Second party is concerned, it is their submission that they are working under direct control and supervision of first party and the contractors engaged are mere namesake contractors. They have further stated that earlier they were given work for full month, but as they moved into litigation, they are now being provided only 11 days' work only. In this premise, they have claimed regularization of service. It is pertinent to note here that the Second Party has not mentioned about the history of litigations against the first party in the Statement of Claims.

As against the same, the first party has tendered an exhaustive Written Statement and stated that the concerned workmen are contractual workers. The contract is given for intermittent nature of odd works. The Contract is awarded after a valid and legal tender process and that the First Party is registered as a principal Employer and the contractors have License under the CLRA, 1970. They have further given the entire history of litigations which the same set of persons has initiated against the first party before different forums etc. They have also averred that the second party persons were permitted to continue due to orders passed by the Hon'ble Courts.

Now if the claim of the second party is examined against the oral evidence led by them, then the picture will be a little clearer. The witnesses of the second party namely Mohanbhai and Kiritbhai vide their affidavits Ex.-34 and 35 respectively have reiterated the facts stated in the statement of claims. In cross examination Shri Mohanbhai (Exh.-34) has specifically admitted that earlier they approached the Central Administrative Tribunal and thereafter they approached the Hon'ble High Court and after disposal of it by the High Court, they also approached the Contract Labour board. They have further admitted that the Contract Labour Board has given decision on 23.03.1998 and decision of Contract Labour Board was challenged by them in High Court and High Court has dismissed their Special Civil Application. Thereafter they have filed Miscellaneous Civil Application therein but said MCA was also dismissed by High Court and since then workmen were given work and salary as per the decision of Contract Labour Board. He has stated in the cross examination that he is not aware about the date of birth and educational qualification of other workmen shown in the list annexed with statement of claim. He has also admitted in his cross examination that he was not appointed in pursuance to anyemployment advertisement made by the first party and that the first party had also not

given them any appointment letter. He has stated that the contractor has given a letter which is at Ex-11/2 which bears his signature. He has also admitted that they are in job on account of interim order of Hon'ble High Court. He has also admitted in the cross examination that first party is engaged in production of electricity and except that no other activity is carried on by the first party.

Now from the above discussion, the observations which will be drawn are that

- (i) The Second party has admitted the litigations as mentioned by the first party in their Written Statement.
- (ii) The Second party has also admitted that they were not appointed in pursuance to any advertisement of the first party and that they are not given any appointment letter by the first party.
- (iii) He has also admitted that he does not know the date of birth, educational qualifications etc. of other listed persons.
- (iv) He has also admitted the appointment letter being given by the Contractor to the concerned witness-workman.
- (v) Lastly it is admitted that they were permitted to continue in employment because of orders passed by the Hon'ble High Court.

16.2 As against the same, the first party has examined one witness Shri Sujaya Kujur, Addl. General Manager, HR vide Ex.-38. In her Examination-in-chief she has stated that at no point of time, concerned persons were employed by the present first party and also denied the relationship of Master and Servant between the present first party and said workmen. She has further stated that the concerned persons are working under the contractor. She has further stated that it is prerogative of the contractor to retain them or terminate them. The first party has no role for any of the above acts of the contractor. The first party has no control and supervision over the contract labour. Appointments, payment, termination of contract labour are the exclusive prerogative of contractor. She has further stated in her examination in -chief that reference is not maintainable as it is barred by non-joinder of necessary party i.e. contractor and also barred by principle of res-judicata. The said witness has identified the documents produced at 11/1 to 11/14 and also reiterated the facts stated in the written statement. In the scrutiny of her cross examination, the witness is found to have stated that the concerned persons are appointed by the Contractor and are also used to be paid by the contractor. She has also stated that the concerned persons are in job even today and are continuing in work despite change in contractor due to orders passed by the Contract Labour Board. She has further admitted that these workmen are given lowest pay scale as per the decision of the Contract Labour Board. She has denied that the work is of perennial nature. She has also admitted that the payment of arrears to the workers has been paid as per order of the CACLB by them and same is recovered from the contractor. She has also stated that as on today there is no category of helper in the first party establishment and no person is appointed on the post of helper since 2001. She has also stated that no permission is required to work in service maintenance department. She has stated that a permit is to be issued to work in Radio Active Area. She has denied that in radioactive area, the officer of the First Party instructs the workers. Workers are given I card and entry in any department is possible on the same. She has further stated that there are two types of I-Cards, one for regular employees and another for contractual employees. The same are issued by the Security Department. She states that Contractor takes work from contract worker and the workers work accordingly. Lastly it is stated that the First Party is registered as a Principal Employer under the CLRA.

Now from the above, the relevant observations are:

- i) The concerned workers are continued in job despite change in contractors from 1998. However, the same has been done initially as per the order of the CACLB and then as per the orders passed by this tribunal and Hon'ble High Court.
- ii) As per the orders of the CACLB to pay Basic pay + D.A. of the lowest cadre i.e. helper, the workers are paid wages accordingly. The arrears as such were paid by the First Party and then recovered from the contractor.
- iii) The workers are appointed, supervised, instructed and paid by the contractor and the Corporation has no role in the same.
- iv) The first party is registered as a Principal Employer under the CLRA, 1970.
- v) The history of litigations and orders passed by the Courts have not been asked at all in the cross examination. Hence, the same are to be believed to be true as the same are not controverted.
- vi) In chief examination, it is stated that the said persons cannot be equated with the regular workers of the first party. It is further stated that no persons are recruited in the First party without following the Recruitment rules/norms. There is no cross on these aspects also.

16.3 Now as discussed above, the first party has stated in so many words in WS regarding the history of litigations and prayed that the reference is not maintainable. The relevant orders etc. have also been produced on record vide list Ex-11. The Second party witness has also in cross admitted this fact. The first party witness has also identified those documents while there is no cross examination to that effect in this regard by the second party. Moreover, considering the factum that all the documents are Orders passed by the competent Authorities including the fact that the same have been admitted, the Tribunal has to consider the same and decide primarily on whether the Reference is maintainable or not.

Now from the record it is borne out that, before filing the present reference the second party approached the Hon'ble High Court vide SCA No. 10536/1996 seeking relief against the termination and seeking the basic pay in the pay scale of the post held by them with the corresponding allowances and other benefits as applicable to the permanent employee to the corporation. The Hon'ble High Court has decided the said SCA vide its judgment dated 24.07.1997 and continued the interim relief granted earlier and further Hon'ble High Court has directed the petitioner -second party to seek alternative remedy under the I.D. Act or under Contract Labour Act or before Industrial Tribunal. Thereafter the second party union has approached the Contract Labour Board and the Central Advisory Contract Labour Board has by its resolution dated 08.01.1998 referred it to the committee of experts. Before the said committee following terms of reference were referred

*“To study the working of contract labour system in the jobs / works of gardeners, housekeepers, helpers, riggers, attendants, aaya etc. in of the establishment of Kakrapar Atomic Power Station, Dist. Gujarat make a suitable recommendation whether or not the employment of contract labour of the above job/ works in the establishment of Kakrapar Atomic Power Station, Surat district, Gujarat be prohibited keeping in view of the provisions of Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970”.*

In pursuance to the resolution dated 08.01.1998, the committee has submitted its report on 23.03.1998 after spot visit of the first party premises and discussions with both the parties. The committee has specifically held that the works / jobs of housekeeping / helpers in the plant premises is available but the same is fluctuating in nature depending upon the exigencies of work. In the said report, committee has further stated that if board decides to abolish the contract system half of the workers will lose the job because all workers are not being utilized every day and they are only getting 10 to 15 days attendance in a month and directed the corporation to pay the wages equivalent to the lowest earning departmental employee (basic + DA). Being dissatisfied with the decision of the Committee the second party had approached the Hon'ble High Court by way of SCA No. 7479/1999 and other allied matters. The Hon'ble High Court has disposed of the said petitions vide its judgment dated 09/10/2001 on merits. Meaning thereby the order passed by the committee's report has attained finality. Hence, as such as per the earlier order of the Hon'ble High Court dated: - 24.07.97, the second party union has exhausted the remedy before the contract labour board. Moreover, said Miscellaneous Civil Application was also filed but the same was also disposed of. Not only that, the said order of the Central Government based on recommendations of the CACLB has been implemented and the concerned persons are paid wages accordingly. Thus the second party has already exhausted one of the 2 remedies available to it seeking prohibition of contract labour under the CLRA. 1970 /regularization under the I.D. Act. Now the present reference is filed wherein also the same relief i.e. regularization/absorption is sought for and referred to it by the Appropriate Government. It is also not the case of the second party that the Order passed by the Central Government based on recommendations of the CACLB is ex-parte or was not decided on merits or is under challenge or stayed. On the contrary the said order has attained finality and the second party is reaping the benefits flowing from that order since last 15-20 years. Therefore, the contention of the first party that the second party has been approaching different forums seeking the same relief time and again and that having chosen one and other remedy, they are now stopped from seeking the similar relief under a different Enactment is well founded and cannot be faulted with. In these facts, therefore this tribunal is of the opinion that the Reference is barred by the principle of Res-judicata. Thus I answer the first issue accordingly in the affirmative.

16.4 Now coming to the other issues, the saying of the union is that they are working under the direct control and supervision of the First party and that they are entitled to be regularized. Now it is for the party claiming the relief to substantiate its case. As stated earlier, 2 workers have been examined by the second party out of 81. Moreover, those persons have stated in cross-examination that they do not know the age, qualification etc. of other persons. As per the settled legal position, if a person claiming a relief does not enter the witness box to prove his pleadings, then he is not entitled to any relief as prayed for.

Now as discussed earlier, the second party has produced various documents in the matter. Not all the documents produced have been referred to in their examination-in-chief. The case of the second party is that they are working under direct control and supervision of the Principal employer and that the contractor is a mere paper arrangement. Now the documents produced are as such not proved and exhibited. Even then, if all the documents are perused, then documents at Ex.- 8 pertains to letter of contractor to issue I-cards to the concerned employees, order of the Hon'ble

High Court in CA No. 6452/03, Charter of Demand, FOC report, appointment letter given by the Contractor, work order etc. Then the documents produced at Ex- 16 are list of workers, copy of wage register of contractors and attendance cards. Vide Ex – 36, the documents produced are copy of cheques issued to the workers by the first party, letter dated: 18.11.2003, work permit and one letter of 1995. Vide Ex – 33, attendance reports etc. are produced. Firstly, none of the documents are produced in original nor the same are proved. Secondly, as far as charter of demand, FOC report, Order of the Hon'ble High Court etc. are concerned, the same will not take the case of the second party any further to substantiate that they are working under direct supervision and control. The work orders also similarly are not helpful to the second party. Moreover, appointment letters are given by the contractor and the same are produced by the second party. As far as the cheques issued by the first party are concerned, the same are issued by the first party towards payment of arrears in compliance of the order of the Central Government as per the recommendations of the CACLB. This was done as per Sec. 21(4) of the CLRA, 1970. Hence that would also not prove that they were working under the direct supervision and control. The CLRA, 1970 provides that the Principal Employer is liable for payment of wages in case of default by the contractor. Now in compliance of the said section, if some payment is made then the same would not create any right of regularization in favour of the workers. Now letters written by the contractor for issuance of Entry pass will also not prove that there is direct supervision and control. As against the same, the first party has stated that the work is given by the contractor. The First party is registered as a Principal Employer and the contractors have taken licenses under the Act. Moreover, the contract is issued after a valid tender process. The witness has further stated that appointment; termination etc. of the workers is a prerogative of the contractor. As far as the entry passes are concerned, it is admitted that the same are issued by the security department. Even for visitors, the entry passes are issued by the very same department. The witness has specifically denied that the work of house-keeping in plant area is supervised by the officers of the first party. The witness has also not identified the alleged Xerox attendance records etc. produced vide Ex. – 33. Biometric passes are issued which are required for entry in any department but the same is true even for a visitor.

As far as attendance records are concerned, it has come on record that as the payments to workers are to be made on the basis of attendance and the first party has to ensure that the said payments are made accordingly by the contractor, the same are checked by the first party. The fact that such records are there will not create any direct relationship. Moreover, the work place belongs to the first party will also not weigh the balance in favour of the second party. Moreover, if the terms of contract produced by the second party are perused, then it would be clear that the statutory liabilities, wage payments, materials etc. are to be borne by the contractor.

Now, if the report of the committee is considered, then it is observed that the work available is fluctuating in nature depending on the exigencies of the work and that the workers are only given work for 10-15 days in a month. Moreover, even as on date, the workers were provided work for around 10-12 days. In Statement of claims also, the second party has stated that they are provided work for around 11 days only in a month. The workers are as such continuing to work even today due to orders passed by the Authorities from time to time. Therefore, even with the change of contractor, the workers are not changed. Hence the averment that they have been continued etc. for a long time cannot be said to be due to work availability but due to orders of the Competent Courts.

17. The Second party has also relied upon some judgments in support of its contentions but considering the peculiar facts of the present case, the same are not helpful to the second party. The second party has admitted that they are doing housekeeping work while the work done in the first party is generation of electricity. Moreover, appointment and conditions of service etc. are prerogative of the contractor and not of the first party. The wage payment is also done by the contractor and not the first party. Secondly in BHEL judgment, the work was supervised by the employees of the Principal Employer. The same is also not the case herein. Then the second party has relied upon the case of Silver Jubilee Tailoring House Vs. Chief Inspector of Shops and Establishments reported in 1973(2) LLJ 495. In the said case, the workers were doing the work directly connected to the main work, i.e. stitching of clothes and they were given work by the first party. Moreover, the work was allotted and supervised by the employees of the Principal Employer. Hence there was direct control and supervision and work was available every day. The second party has also relied upon in case of Hooghly Jute Mills Vs. Their Employees reported in 1957(1) LLJ 477 but the same is not applicable in the present case. The second party has also relied upon judgment in case of Bharat Heavy Electricals Ltd. Vs. State of Uttar Pradesh reported in 2003(6) SCC 528 which pertains to adverse inference. In present case, no such occasion has arisen. The second party has relied upon judgment in case of Bijlee Mazdoor Panchayat where the contractors changed but the workers did not. In the present case, the workers are continued only due to orders by the Courts. Hence, any relief granted on that ground will tantamount to litigious employment. In the case on hand, the workers have failed to establish direct relationship, control and supervision etc. of the first party and on the contrary, facts have come on record which establish that they are appointed by contractors, paid by contractors, they are not doing activity connected directly with the nature of work, they have not undergone the recruitment process etc. Moreover, they have not even tried to substantiate that they are qualified or eligible to work on any post in regular set up. Only 2 out of 81 persons have entered the witness box and they do not know what is the age, qualification etc. of other persons. Over and above,

the CACLB also has categorically held that the work is fluctuating in nature and that the contract system cannot be abolished.

18. On the other hand, the First party is a Central Government Company and established under Atomic Energy Act. It is admitted position that the first party has its own set of Recruitment rules and the same are to be followed before any recruitment is done. Admittedly, the said workers are appointed by contractors and they have not undergone any recruitment process. The First party is registered as a Principal Employer and the contractors are also issued Licenses by the Competent Authority which would not have happened in case the contract was sham.

19. The first party has also relied upon some judgments, the first of which is in the case of Secretary, State of Karnataka V/s UMADEVI & Ors. reported in 2006(4) SCC 1. In the said judgment, the Hon'ble Court has held that unless the appointment was made in terms of the relevant rules no rights are conferred on the appointee. Merely because he is continued for long time does not entitle him to be absorbed in regular service. The Hon'ble Court has also held that the courts should not interfere unduly with the economic arrangement of its affair by the State or land themselves the instrument to facilitate by passing the constitutional and statutory mandates.

20. The first party has then relied upon judgment in case of Balwant Rai Saluja & Anr. Vs. AIR India Ltd. & Ors. reported in 2014(3) CLR 751 wherein Hon'ble High Court has held that contractual workers working in statutory canteen as per the Factories Act who are under certain degree of control of the Principal Employer also cannot claim regularization as there is no parity in the nature of work, mode of appointment, qualification etc. between regular employees of the partly employer and concerned persons. The Judgment of SAIL relied upon may be not be applicable in facts of the present case.

21. Then the first party has relied upon judgment in case of Chetankumar Sureshbhai Patel & ors. Vs. Oil and Natural Gsas Corporation Ltd. & Ors. reported in 2016 III CLR 106 wherein the Hon'ble Court has after considering the judgments till date held that regularization can never be a mode of appointment and that even if workers are continued for long period they cannot be regularized.

22. The first party has also relied upon judgment in case of International Airport Authority of India Vs. International Air Cargo Workers Unions & Anr. reported in 2010 III CLR 140 wherein it is held that even if there is supervision of employees by the principal employer, the contract labour cannot be regularized.

23. Thus, tribunal is of the view that the judgments relied upon by the first party are squarely applicable in the present case considering the materials and evidences on record.

24. Lastly, the first party has also taken a contention that the reference is bad in law due to non-joinder of parties as the contractor has not been impleaded. In this regard, it would have been a necessary party when the case of the second party is that the contractor is a mere intermediary. The Hon'ble Allahabad high Court in case of M/s. NTPC Ltd. Vs. Government of India & Ors. reported in 2015 (144) FLR 248 has held that when the contractual employees are seeking regularization, then the contractor is not only a necessary but a proper party.

25. Thus, the second party has failed to prove that they are working under the direct control and supervision of the first party and that they are entitled for regularization in the first party. Hence, I answer the Issue nos. 2 & 3 in negative and against the Second Party.

26. Thus, the reference is dismissed. Although considering the fact that the second party has filed numerous litigations for the same cause of action and this would be a fit case for awarding cost, this Tribunal refrains from doing so. No Order as to costs.

27. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 27 दिसम्बर, 2017

**का.आ. 9.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एक्सपोर्ट क्रेडिट गांटी कारपोरेशन ऑफ इंडिया लिमिटेड, अहमदाबाद के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण-सह-श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 165/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20.12.2017 को प्राप्त हुआ था।

[सं. एल-42012/105/2003-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 27th December, 2017

**S.O. 9.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 165/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Export Credit Guarantee Corporation of India Ltd., Ahmedabad and their workmen, received by the Central Government on 20.12.2017.

[No. L-42012/105/2003-IR (CM-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 22<sup>nd</sup> November, 2017

##### Reference (CGITA) No. 165/2006

The Branch Manager,  
Export Credit Guarantee Corporation of India Ltd.,  
1, Nagindas Chambers, 1<sup>st</sup> Floor, Usmanpura,  
Ahmedabad (Gujarat) – 380014

...First Party

V/s

Shri Mahendra Ambalal Waghela,  
C/o Akhil Gujarat General Mazdoor Sangh,  
2<sup>nd</sup> Floor, Arab Manzil, Patter Kuwa,  
Relief Road,  
Ahmedabad (Gujarat) -380001

...Second Party

For the First Party : :

For the Second Party : :

#### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42012/105/2003-IR(C-II) dated 30.08.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

#### SCHEDULE

“Whether the action of the management of Export Credit Guarantee Corporation of India Limited in terminating the services of Shri Mahendra Ambalal Waghela.e.f. 09.06.1997 is legal and justified? If not, to what relief the workman is entitled to?”

1. The reference dates back to 30.08.2006. The second party workman submitted the statement of claim Ex. 7 on 08.04.2008 and the first party submitted the written statement Ex. 9 on 19.02.2009. Since then the second party has been absent and has also refrained to lead his evidence.
2. Thus it appears that the second party workman is not willing to prosecute and pursue the matter.
3. Thus the reference is disposed of in the absence of the evidence of the second party workman with the observation as under:”the action of the management of Export Credit Guarantee Corporation of India Limited in terminating the services of Shri Mahendra Ambalal Waghela.e.f. 09.06.1997 is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 29 दिसम्बर, 2017

**का.आ. 10.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. रोड्रिग्स एण्ड एप्सोसिएट्स के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में ओद्योगिक अधिकरण एवं श्रम न्यायालय, पणजी, गोवा के पंचाट (आईटी./8/10) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.12.2017 को प्राप्त हुआ था।

[सं. एल-36011/11/2009-आईआर (बी-II)]

रवि कुमार, अनुभाग अधिकारी

New Delhi, the 29th December, 2017

**S.O. 10.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. IT/8/10) of the Industrial Tribunal and Labour Court, Panaji Goa as shown in the Annexure in the Industrial Dispute between the management of M/s. Rodrigues & Associates and their workmen, received by the Central Government on 29.12.2017.

[No. L-36011/11/2009-IR (B-II)]

RAVI KUMAR, Section Officer

#### ANNEXURE

#### IN THE INDUSTRIAL TRIBUNAL AND LABOUR COURT GOVERNMENT OF GOA AT PANAJI

(BEFORE MR. VINCENT D'SILVA, HON'BLE PRESIDING OFFICER)

**Ref. No. IT/8/10**

Workmen,  
Rep. by the General Secretary,  
Mormugao Waterfront Workers Union,  
Dr. Mukund Building, 2<sup>nd</sup> Floor,  
Vasco da Gama, Goa - 403 802

...Workmen/Party I

**V/s**

M/s. Rodrigues & Associates,  
Our Lady of Guia Bldg.,  
Vasco da Gama

...Employer/Party II

Workmen/Party I represented by Ld. Adv. Shri P. J. Kamat.

Employer/Party II represented by Ld. Adv. Shri M. Fernandes.

#### AWARD

(Delivered on this the 17<sup>th</sup> day of the month  
of October of the year 2017)

In exercise of the power conferred by clause (d) of sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government by Order dated 01.02.2010 bearing No. L-36011/ 11/2009-IR(B-II) referred the following dispute for adjudication by this Tribunal.

“(1) Whether the action of the management of M/s. Rodrigues & Associates in not granting permanency to 7-workmen as per the representation of the Union dated 15.10.2008 (Annexure I) is legal and justified? To what relief the workmen are entitled for?”

2. Upon receipt of the reference, it was registered as IT/08/10 and registered A/D notices were issued to both the parties. Pursuant to service of notices, Party I filed a Claim statement at Exb. 7 and Party II filed a Written statement at Exhibit 8.

3. In short, the case of the Party I is that Party II is a proprietorship concern and in the business of stevedores and handling agents at Port of Mormugao since 2002 and is handling coal and coke at Mormugao Port which is a continuous work throughout the year. The Party II has employees/workmen in different categories and the work carried

out is of permanent and perennial in nature. The Party I workmen are working for more than 8 years continuously with Party II, but has not been accorded status of permanency. The Party II has been neglecting in granting permanency to the workmen in their rolls for last many years and as such are entitled to be made permanent in the services of Party II w.e.f. 15.10.08. Hence, the reference.

4. In the Written statement, the Party II has contended that the statement of claim filed by Party I workmen is baseless and not maintainable. The management and the workmen had entered into a Memorandum of settlement through their union and as per the said settlement, there is no clause of whatsoever nature so as to regularize the employment of the workmen and the said Memorandum of settlement is still binding upon Party I union. The claim made by Party I is therefore false and baseless.

5. The Party I filed a rejoinder at Exb. 9 denying the case put forth by Party II in the written statement.

6. Issues came to be framed at Exhibit 11.

7. In the course of further proceedings, the parties filed an application enclosing therewith a Memorandum of Settlement dated 29.09.2017 signed between the parties at Exb. 35 colly. In the terms of the said settlement, they have arrived at revised wages and conditions of services with the management.

8. The terms of settlement are as follows:

- (1) It is agreed between the management and the union that the workmen enlisted at Annexure "A" will be given 21 days (Twenty one Days) minimum guaranteed wages per month w.e.f. the date of signing the agreement provided employees are present for the full month. If employees will be on leave, proportionate M.G. will be given. If employees remain unauthorized absence no M.G. is entitled.
- (2) It is agreed between the management and the union that whenever there is excess of work load, the management will utilize the services of other temporary tally clerks depending upon the exigencies of work. It is further agreed by the management that the first preference will be given to the staff/workmen under this settlement.
- (3) It is agreed between the management and the union that workmen listed in Annexure A will be paid revised shift rate category wise w.e.f. the date of signing the agreement as detailed below:
  - (i) Foreman Rs. 600/- per shift.
  - (ii) Asst. Foreman Rs. 550/- per shift.
  - (iii) Tally clerk Rs. 450/- per shift.
- (4) It is agreed to revise night weightage for 2<sup>nd</sup> & 3<sup>rd</sup> shift and the shift rate categorywise will be as follows w.e.f. the date of signing the agreement.

	<u>2<sup>nd</sup> Shift</u>	<u>3<sup>rd</sup> Shift</u>
Foreman	25/-	60/-
Asst. Foreman	25/-	60/-
Tally Clerk	15/-	25/-

- (5) It is categorically agreed between the management and the union that:
  - i. The staff will report daily to the duty.
  - ii. The staff, workmen will report to the chief foreman/booking in-charge for booking.
  - iii. The staff, workmen will be working on rotation basis and for all the three shifts, when the work demands.
- (6) It is agreed between the management and the union that whenever there will be no steamer at berths, the foreman and the Asst. foreman will be deployed for supervision of shore handling work, as per the existing practice.
- (7) It is further agreed between the management and the union that in case of excess work and if the Asst. foreman/supervisors have to perform a foreman's duty and similarly the tally clerk have to perform the supervisors duty, the concerned workmen will be paid the upgraded wages for the particular shift.

- (8) It is also agreed between the management and the union that the staff, workmen will not remain absent without prior permission from their supervisors/management except in emergencies.
- (9) It is agreed by the management to provide the following benefits/facilities to the staff workmen from the date of signing the agreement.
  - i. Uniforms: Two sets per year, fine terry cotton.
  - ii. Safety equipments: safety shoes and helmets once in two years.
  - iii. Rain wears: Fine Quality jackets and pants once in two years.
- (10) Bonus: It is agreed between the management and the union to pay the bonus based on company's rule and it will be paid to the workmen 5 days prior to Ganesh Chaturthi Festival every year.
- (11) Leave facility: It is agreed between the management and the union to extend leave facilities from the date of signing the agreement.
  - i. Privilege leave : 20 days per year
  - ii. Sick leave : 20 days half pay per year, can be commuted into 10 days full pay by providing medical certificate.
  - iii. Casual leave : 7 days per year
  - iv. Workmen/employees should ensure one day notice prior to availing leave except during emergencies.
- (12) Holidays:
  - (a) It is also agreed between the management and the union that w.e.f. the date of signing the agreement to extend employees all the Port holidays as declared by Mormugao Port Trust.
  - (b) If the workmen are required to work on any such general holidays, they will be paid overtime allowance at single the normal wages and required to work on Port closed holidays, double the normal wages.
- (13) Festival advance: It is agreed by the management to give the workmen a festival advance of Rs. 4000/- once in a year to celebrate the festival of their choice and the same will be recovered by deducting from their salaries/wages @ Rs. 1000/- per month.
- (14) Short hand money will be paid @ Rs. 200/- per shift increase of absence of one employee.

#### GENERAL

- a) It is agreed by the union of workmen that they shall not raise any other demand involving financial liability on the company during the currency of this settlement.
- b) It is agreed between the management and the union that this settlement will be effective from the date of signing the agreement for one year and thereafter will continue to be effective/binding until terminated.
- c) The management and the union agree to maintain the industrial relations of co-ordination understanding and co-operation.
- d) They further agree to resolve the disputes and differences if any that may arise in the course of time through negotiations and thereby contribute to industrial harmony and overall efficiency.

9. The parties have prayed that in view of the revision in wages and other conditions of services as per the terms above, the union does not wish to continue with the present matter as they have no dispute with the Party II and prayed that the no dispute award be made in the reference.

10. The above terms of settlement are signed by Shri Lyndon Rodrigues and Shri M. A. Shaikh representing the Employer/Party II, so also by Shri. F. X. Rodrigues and Shri. P. Chodankar representing the Workmen/ Party I union. I have gone through the records of the case and the above terms of settlement and I am convinced that the Memorandum of Settlement filed by the parties are just and fair and are in the interest of the Workmen/Party I and Employer/Party II and therefore, the same are accepted and in view of the fact that the parties have conclusively settled the dispute with signing of the settlement, there remains no dispute, claim and/or demand of whatsoever nature against each other.

11. In view of above, I pass the following:

**ORDER**

- i. The reference stands disposed of in view of the Memorandum of Settlement dated 29.09.2017 filed by the parties and the prayer for no dispute made in the said application at Exhibit 35 colly.
- ii. No order as to costs.
- iii. Inform the Government accordingly.

Dated : 17.10.2017

Place : Panaji, Goa.

VINCENT D'SILVA, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 11.**—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स फूड कारपोरेशन ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आौद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-सह-श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 13/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.12.2017 को प्राप्त हुआ था।

[सं. एल-22011/4/2012-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 11.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 29.12.2017.

[No. L-22011/4/2012-IR (CM-II)]

RAJENDER SINGH, Section Officer

**ANNEXURE**

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW**

**PRESENT : RAKESH KUMAR, Presiding Officer**

**L.D. No. 13/2013**

Ref.No. L-22011/4/2012-IR(CM-II) dated 21.02.2013

**BETWEEN**

Sri Ansar Ahmad S/o Sh. Anvar Ahmad  
H.No. C-1208, Rafi Nagar  
Civil Lines, Deva Road  
Barabanki (U.P.)

**AND**

1. The Area Manager  
Food Corporation of India  
Distt. Office, 1/13/203-B,Civil Lines  
Faizabad
2. General Manager (U.P.)  
Food Corporation of India, TC-3V  
Vibhuti Khand, Gomti Nagar  
Lucknow

3. Executive Director (North)  
Food Corporation of India  
2A-2B, Sector-24  
Noida (U.P.)
4. Chairman-cum-Managing Director  
Food Corporation of India  
16-20, Bara Khamba Lane  
New Delhi

#### AWARD

1. By order No. L-22011/4/2012-IR(CM-II) dated 21.02.2013 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Sri Ansar Ahmad S/o Sri Anvar Ahmad, Barabanki and the Area Manager/General Manager(UP)/Executive Director(North)/Chairman cum Managing Director, Food Corporation of India, Lucknow New Delhi for adjudication.

2. The reference under adjudication is:

**“KYA BHARTIYA KHADYA NIGAM, FAIZABAD/LUCKNOW EVAM MUKHYALAYA DWARA  
SRI ANSAR AHMAD, PURVA PRABHANDAK, BARABANKI KO DIYE GAYE DANDADESH  
DATED 27.09.2007 EVAM APPELLEE DANDADESH DATED 28.07.2008 RADD NA KIYA JANA  
NYAYOCHIT EVAM VAIDH HAI? YADI NAHIN, TO KARMKAR KIS RAHAT KO PANE KE  
HAKDAR HAIN?”**

3. As per the claim statement the workman has stated in brief that he has been an employee of the opposite party, and was appointed on 17.05.1971 as AG-III and retired on 27.09.2007 from the post of Manager (D) FCI, FSD, Barabanki, Phase-II under CRS. It has been stated that opposite party no.3 had issued charge sheet under Regulation 58 without any cogent reason at the verge of superannuation, vide letter/charge sheet dated 22/23.07.2007.

4. The petitioner has stressed that opposite party no.3 held an enquiry against the applicant by appointing Sri V.Uniyal, DM(QC) Retd, as an enquiry officer, who inquired into the article of charges framed against the applicant and concluded that the “CO is not found responsible for the losses of Rs.6,55,749.00 caused to the Corporation as a result of shortage deducted in the SBT “A” class on 27/28.01.2007 PV conducted by the district office committee, shortages of bales was proved by the CO prevailing in FSD barabanki Phase II right from the time when he was not born in FSD barabanki Phasi II. The CO cannot however escape the supervisory lapses on his part for his failure to count the bales/gunnies, at least quarterly, during his tenure in Phase II”. The opposite party no.2 had issued the penalty order No. Vig-4(203)/07/NZ/UP/5716 dated 27.09.2007 by imposing penalty of “Compulsory Retirement alongwith forfeiture of Gratuity to the extent of Rs.2 Lacs”, without considering the facts given by the applicant in his defence during the enquiry. The applicant had preferred an appeal dated 16.10.2007 against the aforesaid penalty order dated 27.09.2007 to the CMD FCI Head Quarter New Delhi, who had also called the applicant for a personal hearing on 21.07.2008. The appellate authority had rejected the appeal of the applicant vide order no. A&R/5(122)/2007/1011 dated 28.07.2008 without considering the aforesaid representations of the applicant. The opposite party no. 2 & 1 did not consider the replies of the applicant and imposed punishment by means of non-speaking and non-reasoned order, which is violation of Regulation 60(1)(c) and 60 (1) (d) of the Staff Regulation 1971.

5. It has further been stated that the so called supervisory lapses during the applicant’s tenure, as held by the enquiry officer in his report dated 13.09.2007, during the period in question when the incident took place the applicant workman was not posted there at Depot at Barabanki Phase-II it the charge was taken over by him on 25.04.2006 afternoon whereas the incident took place between 23.04.2005 to 19.05.2005 and it was during the tenure of Sri Raj Kishore Sonkar Depot Officer, FSD BBK Phase-II and Sri Kailash Bihari Kureel, AG-III, Sri Kureel was also posted at main gate and he was incharge of dead stock w.e.f. 31.07.2004 to 31.01.2007. Thus the nexus and their nefarious planning to swindle the SBT bales on receipt was quite clear but no action has been taken against Sri Sonkar by the management.

6. It is further stated that prior to applicant joining, four quarterly PV of gunnies were conducted but none of the PV teams disclosed any shortage of SBT bales/A Class SBT Gunnies. The correctness of gunnies as per book balance being shown by the dead stock incharge verified by the PV teams was taken for granted by applicant on joining. There was no transaction of SBT Bales/A Class SBT Gunnies during my tenure as depot officer FSD BBK Phase II. Hence applicant believed the result of quarterly PV/Zonal PV conducted during applicant’s tenure. In the instant case the matter was reported to applicant in writing by Sri Kailash Bihari Kureel AG-III Depot in-charge dead stock first time on 25.01.2007. Then applicant promptly reported the matter to Area Manager Faizabad over phone as well as by FAX dated 25.01.2007. Area Manager Faizabad visited the depot on 25.01.2007 and submitted his report dated 26.01.2007

to GM(UP), who also stated in his report “that suitable action against Sri Kailash Bihari Kureel AG III Depot incharge dead stock and Sri S.P. Awasthi Manager depot is required”, which shows no supervisory lapse was there on the part of the applicant. The matter was reported to local police authorities on 25.01.2007 through Sri Kailash Bihari Kureel AG III Depot incharge dead stock but the case was registered on 29.01.2007 and after investigation by the police it was found that this is not a case of theft and case was closed vide final report dated 30.03.2007. The petitioner has stated that it is a case of misappropriation of SBT Gunny Bales/Gunnies for which the responsibility goes to Sri Kailash Bihari Kureel, AG III Depot incharge dead stock and Sri S.P. Awasthi, Manager Depot Supervisory officer dead stock and Sri K.M. Yadav, Manager, Depot the then Security Officer, who were responsible for the supervisory lapses. Sri K.M. Yadav Manager Depot, Security Officer was also exonerated in this case.

7. With the aforesaid pleadings, the workman has prayed to set aside the impugned penalty order dated 27.09.2007, 28.07.2008, and directions have also been sought for the opposite parties to refund the forfeited gratuity amount of Rs.2 lacs alongwith interest @ 25% per annum. Several annexures have been enclosed with claim statement, alongwith photo copies of the enquiry report.

8. The management has filed written statement M-10 wherein the main allegations leveled in the claim statement have been denied. The management has stated that the petitioner was working on the post of Manager (D) FCI FSD, Barabanki, Phase-II under CRS, and he had connivance with other officials thereby misappropriated gunny bales valuing at Rs.6,55,749.00, consequently charge sheet dated 22/23.07.2007 was issued by him, thorough enquiry was conducted and he was found guilty, he can not escape from his supervisory lapses for his failure to maintain the stocks of gunnies, he was responsible for the theft of the gunnies, the alleged penalty was imposed after going through the facts and defence documents and evidence produced by the petitioner, judicious assessment and evidence were also taken into account.

9. The management has further stated that Sri Ansar Ahmad, Ex-Manager (D) has himself admitted that the incidence of theft occurred in FSD Barabanki Phase-II, but the date mentioned by him is incorrect. His statement that the theft occurred before his joining at FSD Barabanki Phase-II is incorrect because when he joined he took the physical charge of the gunnies that were found short later on. It is admitted that the applicant took over the charge of gunnies well as per book balance. So, it is clear that the gunnies which were found short later on were very well in the stocks when the applicant took over the charge of stocks. The applicant himself admitted that he believed on the result of quarterly PV/Zonal PV of gunny stocks and the stocks were correct to his belief. The applicant was overall incharge of godowns and Sri S.P. Awasthi, Ex-Manager and Sri Kailash Bihari Kureel, Ex-AG III (D) were working under him. So, the charge of supervisory lapses on the part of the applicant has correctly been leveled. It is evident that the loss of gunnies to the tune of Rs.6,55,749.00 was due to misappropriation committed by the applicant in connivance with Sri S.P. Awasthi, Ex-Manager (D) and Sri Kailash Bihari Kureel, Ex-AG III (D).

10. The opposite party has emphasized that the applicant was in fact incharge of the Depot and he has been genuinely, found guilty of supervisory lapses and penalty imposed is quite justified. The management has requested to reject the claim statement and adjudicate in favour of the FCI. Along with written statement order dated 27.09.2007 issued by Zonal Office, FCI has been enclosed.

11. With denial of the facts mentioned in the claim statement while reiterating the pleas taken in the claim statement, rejoinder W-11 has been filed by the workman.

12. As per list W-12 several documents have been filed by the workman. As per list M-13 various documents and copies of certain orders issued by FCI have been filed by the management.

13. In evidence the workman has filed his affidavit W-14, he has been thoroughly cross examined on behalf of the management. The management has filed affidavit of Sri Pratyush Kumar Sinha as M-17 and he has been cross examined thoroughly on behalf of the workman. During argument on preliminary issues, learned AR for both the parties requested that evidence in detail has already been adduced by the parties, therefore some date may be fixed for final argument. This request/suggestion was found by the court as quite prudent and appropriate.

14. Arguments of both the parties have been heard at length and record has been scrutinised, comprehensively.

15. The authorized representative of the workman has submitted that the workman had been issued an illegal charge sheet for the loss which occurred in the Barabanki Depot Phase II between 23.04.2005 to 19.05.2005 whereas the workman joined the said depot on 25.04.2006 as Depot Officer. It has been argued by the representative of the workman that the loss occurred at the time of Sri Raj Kishore Sonkar, Depot Officer, FSD, Barabanki Phase II and Sri Kailash Bihari Kureel, AG III who was Depot-in-charge w.e.f. 15.04.2005. It has been submitted that the case of loss was reported to the workman firstly on 25.01.2007 and when the workman informed the same to the higher authorities, the Area Manager, Faizabad visited the depot on 25.01.2007 who recommended for suitable action against Sri Kailash Bihari Kureel AG III and Sri S.P. Awasthi, Manager depot vide his report dated 25.01.2007. It has been argued by the

workman that the issuance of charge sheet against him was an illegal act on the part of management; also that the inquiry report was favourable to him even then the management has punished him.

16. Per contra, the learned authorized representative of the management has rebutted the submissions of the workman and has submitted that the workman was Manager (Depot) of the FSD, Barabanki Phase II and accordingly, he was over all in charge of the Depot including dead stock articles. When loss was reported to the Area Manager, FCI, Faizabad a Committee of four officers was constituted, which reported shortage of 46 gunny bags and 1287 loose SB A class gunnies valuing Rs. 655749/- and the workman being over all in charge including Dead Stock was found at fault. Accordingly, he was issued a charge sheet and on conducting a formal inquiry, the workman was found responsible for the same and resultantly, he had rightly been penalized by the Disciplinary as well as Appellate Authority.

17. I have given my thoughtful consideration to the rival submissions of the learned authorized representatives of the parties and scanned entire evidence available on record, documentary as well as oral.

18. The workman has come with the case that the incident of loss occurred during the period between 23.04.2005 to 19.05.2005 when he was not posted at FSD Barabanki; rather he was posted at Punjab in the relevant period of time. It was the workman who brought the loss into the notice of the authorities for the first time. He has relied upon the report dated 25.01.2007 of the Area Manager, who recommended for suitable action against Sri Kailash Bihari Kureel AG III and Sri S.P. Awasthi, Manager depot. He has also relied upon the inquiry report; wherein it has been observed by the Inquiry Officer that the workman was at fault.

19. On the contrary, the management has come up with the case that the workman being overall in charge of Depot was responsible for the loss and had he observed his duties in right manner the loss would not have occurred.

20. From perusal of the respective pleadings of the parties and documents on record it is crystal clear that the workman had been working as Asstt. Manager (D), FCI at Budhlada, Punjab and was relieved on 26.07.2003 (AN) vide office order dated 26.07.2003 for office of the District Manager, FCI, District Office, Faizabad; whereupon he submitted his joining at the office of the District Manager, FCI, Faizabad vide his application dated 28.07.2003 and he was posted at FSD, Barabanki Phase II vide office order dated 31.07.2003. However, he took over the charge of Administrative and depot operation of FSD Phase II, Barabanki from Raj Kishore, Manager (D) w.e.f. 25.04.2006 (AN).

Admittedly the alleged incident of loss occurred during period between 23.04.2005 to 19.05.2005 at FSD, Barabanki Phase II and the workman took charge as Manager (D) w.e.f. 25.04.2006 (AN). The matter of loss was brought to the notice of the workman for the first time on 25.01.2007, who reported the same to higher authorities on the same day; whereupon the Area Manager visited the depot on 25.01.2007 and recommended for suitable action against Sri Kailash Bihari Kureel, AG III Depot Incharge dead stock and Sri S. P. Awasthi, Manager Depot vide his report dated 26.01.2007. However, the Committee of four officers was constituted later on, which reported shortage of 46 gunny bags and 1287 loose SB A class gunnies valuing Rs. 655749/- and the workman being over all in charge including Dead Stock was found at fault.

A formal inquiry was conducted after issuing charge sheet dated 22.07.2007 and the Inquiry Officer in his inquiry report dated 13.09.2007 has concluded as under:

***“On the face of value of documents, oral evidence and arguments tendered, the CO is not found responsible for the loss of Rs. 6,55,749.00 caused to the Corporation as a result of shortage detected in the SBT A class on 27/28-1-87 conducted by the Distt. Office Committee, shortage of bales was proved by the CO prevailing in FSD, BBK Phase II, right from the time when he was not borne in FSD, Barabanki Phase-II.***

***The CO can not however escape the supervisory lapses on his part for his failure to count the bales/gunnies, at least quarterly, during his tenure in Phase II.”***

A bare perusal of the inquiry report shows that the Inquiry Officer also did not find the workman responsible for loss cause to the Corporation as a result of shortage detected for the reason he was not borne in FSD, Barabanki Phase-II; but later on, very surprisingly, he held him guilty for the supervisory lapses during his tenure in Phase II, probably on the basis of the report of the Committee of four officers. While arriving at above conclusion and holding the workman responsible for loss, the Inquiry Officer, ignored the fact that it was the workman who reported the loss vide his report dated 25.01.2007 and the Area Manager visited the FSD, Barabanki Phase II same day and recommended for action against responsible officials; but the name of the workman was not there. Further, the Inquiry Officer also failed to appreciate this fact that when an admitted loss occurred at some point of time and an official was not posted there as In charge; rather he joined there later on, then how he could be held responsible for the same.

21. Therefore, keeping in view, the facts and circumstances of the case, respective pleadings of the parties and documentary as well as oral evidence relied upon by the parties, I am of considered opinion that the workman cannot

be held responsible for losses which occurred during period when he was not posted at FSD, Barabank, Phase II as observed by the Inquiry Officer in his report; and accordingly, I come to the conclusion that the action of the Management of FCI, Faizabad, Lucknow and Headquarters in penalizing workman vide penalty order dated 27.09.2007 and appellate order dated 28.07.2008 was unjustified and illegal and accordingly, the same are set aside; resultantly the workman is to be paid Rs. 2,00,000/-, forfeited from his gratuity within ten weeks of publication of this award, failing which the workman shall be entitled for interest @ 6% per annum on entire amount.

22. The reference is answered accordingly.

23. Award as above.

LUCKNOW.

31<sup>st</sup>, October, 2016.

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 12.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स फूड कारपोरेशन ऑफ इंडिया के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में पर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण-सह-श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 290/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.12.2017 को प्राप्त हुआ था।

[ सं. एल-42011/71/1987-आईआर (सीएम-II) ]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 12.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 290/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of M/s. Food Corporation of India and their workmen, received by the Central Government on 29.12.2017.

[No. L-42011/71/1987-IR (CM-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 07<sup>th</sup> December, 2017

##### Reference (CGITA) No. 290/2004

The Joint Manager (PO),  
Food Corporation of India,  
Adipur,  
Kutch (Gujarat)

...First Party

##### V/s

The Secretary,  
All India Trade Union of Food Corporation Employees & Workers,  
DBZ-S-184-A,  
Gandhidham,  
Kutch (Gujarat)

...Second Party

For the First Party : Shri A. A. Saiyad

For the Second Party : Kum. Neeruben Vora

## AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-42011/71/87-D.II(B)/D(IV)B dated 04.05.2000 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

## SCHEDULE

“Whether the action of the management of FCI, Adipur in retiring prematurely to S/Sh. Madhu V., Chellaram K. and D.B. Rana w.e.f. 30.07.1986 from service is legal and justified? If not, to what relief the workmen are entitled?”

1. The reference dates back to 04.05.2000. The second party submitted the statement of claim Ex. 8 on 10.01.2002 and the second party again submitted the statement of claim Ex. 22 on 10.08.2011. The first party Food Corporation of India submitted the written statement Ex. 12 on 24.10.2002. On 16.03.2017, the first party moved an application Ex. 25 for recalling the order of ex-parte hearing. Since then the second party has not been leading evidence. On 06.07.2017, the second party was also given last opportunity to lead evidence but to no result. However, the advocate of the second party moved an application Ex. 28 informing the tribunal that he tried the workmen and their union to contact through a letter send by registered post, acknowledgement is also enclosed, to lead evidence but neither the union nor the workmen responded. Thus it appears that the second party is not willing to prosecute the reference.

2. Thus the reference is disposed of in the absence of the evidence of the second party with the observation as under: “the action of the management of FCI, Adipur in retiring prematurely to S/Sh. Madhu V., Chellaram K. and D.B. Rana w.e.f. 30.07.1986 from service is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 13.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टैंडर्ड चार्टर्ड बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 29/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-12012/126/2003-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 13.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Standard Chartered Bank and their workmen, received by the Central Government on 01.01.2018.

[No. L-12012/126/2003-IR (B-I)]

B. S. BISHT, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

#### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 20<sup>th</sup> November, 2017

**Reference: (CGITA) No. 29/2006**

1. The Manager,  
Standard Chartered Bank,  
2, Abhijeet, Near Mithakali Six Road,  
Ellisbridge, Ahmedabad (Gujarat)

2. M/s Raj Enterprises,  
B/132, Falgun Apartment,  
Opp. Subhadra Colony, Jodhpur Satellite,  
Ahmedabad
3. M/s Love Lock and Lewes Services Pvt. Ltd.,  
Mittal Tower, C Wing, 14, MG Road,  
Bangalore

...First Party

**V/s**

Shri Babubhai N. Desai,  
Gopalnagar Part 6, Opp. Sumey Apartment,  
Memnagar,  
Ahmedabad (Gujarat)

...Second Party

For the First Party : :

For the Second Party : :

#### **AWARD**

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/126/2003-IR(B-I) dated 27.02.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

#### **SCHEDULE**

“Whether the action of the management of the Standard Chartered Bank, Ahmedabad in terminating the services of Shri Babubhai N. Desai w.e.f. 01.06.2002 is justified or not? If not, to what relief he is entitled to and from which date?”

1. The reference dates back to 27.02.2006. The second party workman submitted his statement of claim Ex. 5 alleging that he was appointed by the first party no. 2 M/s Raj Enterprises as an Executive vide appointment letter dated 27.06.2000 as per the terms and conditions mentioned therein to work w.e.f. 27.04.2000 with a basic salary of Rs. 2260/- with a total emolument of Rs. 3560/- per month where he worked till 24.11.2001 when the first party no. 2 M/s Raj Enterprises obtained his resignation letter w.e.f. 30.11.2001. During the aforesaid service period, the contribution of provident fund and ESI was made by the first party no. 2. He used to sign in the attendance register. The first party no. 2 used to pay wages. He has further alleged that the first party no. 1 Standard Chartered Bank engaged the first party no. 3 M/s Love Lock and Lewes Services Pvt. Ltd. as service provider to provide the employees by way of outsourcing. The first party no. 3 employed him (second party workman) from 01.12.2001 to 31.05.2002. The first party no. 3 used to pay him basic salary of Rs. 2400/- per month and total emolument Rs. 3560/-. The first party no. 3 used to contribute PF and ESI contributions. On 31.05.2002, his services were again terminated without any reason. Thus he has prayed for declaration of his service with first party no. 1 Standard Chartered Bank w.e.f. 27.04.2000, since the date of appointment letter issued by the first party no. 2 M/s Raj Enterprises. He has also prayed for any other relief which the tribunal deems fit. The second party workman has submitted the necessary documents vide list Ex. 5 showing his engagement as an Executive by the first party no. 2 and 3 to work in the first party no. 1 Standard Chartered Bank.

2. Standard Chartered Bank submitted the written statement Ex. 6 denying the averments made in the statement of claim partly admitting the facts that the workman was engaged as a contractual employee by way of outsourcing from first party no. 2 and 3. He has submitted that the second party workman was the representative of the first party no. 1 for depositing and collecting all the cheques, pertaining to inward-outward clearance. He has never been his employee. It has been further submitted that in UPSC V/s Girish J. Vaghela, the apex court has held that an employee can only be recruited by a proper procedure in the bank. The workman had never been his employee; therefore, relief sought is not maintainable.

3. The first party no. 2 M/s Raj Enterprise submitted written statement Ex. 9 admitted that the second party workman was his employee who was appointed by him on 01.12.2001 to work in the establishment of first party no. 1 where he worked till 30.04.2002. Thereafter, the second party workman voluntarily stopped reporting for work. His services were never terminated. The workman has not sought any relief against him and has also not any industrial dispute against him.

4. On the basis of the pleadings, the following issues arise:
- i. Whether the action of the management of the Standard Chartered Bank, Ahmedabad in terminating the services of Shri Babubhai N. Desai w.e.f. 01.06.2002 is justified or not?
  - ii. If not, to what relief, if any, he is entitled to and from which date?
5. Issue No. (i& ii): Both the issues are interrelated and will be decided together. The burden to prove these issues lie on second party workman who has submitted his affidavit Ex. 12 reiterating the averments made in the statement of claim Ex. 5 and in his cross examination, he has admitted that the first party no. 1 Standard Chartered Bank never issued him any appointment letter nor he was terminated by the first party no. 1. He has also admitted that his wages were paid by the first party no. 2 and 3 respectively and PF and ESI deductions were also collected by the first party no. 2 and 3.
6. The first party no. 2 and 3 did not give any oral evidence to rebut the evidence given by the second party workman.
7. The reference made by the Government of India is as under:
- “Whether the action of the management of the Standard Chartered Bank, Ahmedabad in terminating the services of Shri Babubhai N. Desai w.e.f. 01.06.2002 is justified?”
8. The reference discloses that the workman has sought a relief to get his termination of service by Standard Chartered Bank as unjustified. This is a settled law that the tribunal cannot go beyond the scope of the reference. The workman in his evidence has admitted that he was appointed by the first party no. 2 and 3 successively and he has not shown any documentary evidence that his services were ever terminated by second party no. 2 and 3 by way of documentary evidence. It is likely that he would have been asked to stop coming to serve in the bank by the first party no. 2 and 3 as and when their contract with the first party no. 1 Standard Chartered Bank would have seized. Thus in the light of the aforesaid evidence, no relief can be granted with respect to the reference against the first party no. 1 Standard Chartered Bank.
9. However, during the course of argument and also during the cross-examination of the workman by the advocate of first party no. 2, it has come out and can be concluded that the first party no. 2 M/s Raj Enterprises has not terminated the services of the workman and first party no. 2 is still willing to engage him and the workman is also willing to service with the first party no. 2. Thus in the light of the aforesaid evidence, the issue no. (i) can be decided in the manner that the workman will not have any right or obligations against the first party no. 1 Standard Chartered Bank regarding his re-instatement of service but the first party no. 2 M/s Raj Enterprises will re-engage the workman from the date when he reports with a payment of lump-sum of Rs. 50000/- to the workman at the time of re-engagement. Both the issues are decided accordingly.
10. The aforesaid findings of the issues will be treated as award.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 14.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम व्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 873/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01. 2018 को प्राप्त हुआ था।

[सं. एल-12012/506/98-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 14.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 873/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01.01.2018.

[No. L-12012/506/98-IR (B-I)]

B. S. BISHT, Section Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
AHMEDABAD

## Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 04<sup>th</sup> December, 2017

Reference: (CGITA) No. 873/2004

The Chief Engineer,  
State Bank of India,  
Diwanpura Road,  
Bhavnagar (Gujarat) – 364001

...First Party

V/s

Shri Lalji Bijalbhai Sumra,  
C/o  
Rashtriya General Workers Union,  
Vadva Chavdigate, Nr. Kalubhai Panwala,  
Bhavnagar (Gujarat) – 364001

...Second Party

For the First Party : Shri B.M. Joshi  
For the Second Party : Shri V.K. Kazi

## AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/506/98-IR(B-I) dated 22.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

## SCHEUDGE

“Whether the action of the management of State Bank of India, Bhavnagar in terminating the services of Shri Lalji Bijalbhai Sumra w.e.f. 18.02.1997 is legal and justified? If not, what relief the concerned workman is entitled to?”

1. The reference dates back to 22.03.1999. Both the parties submitted their statement of claim Ex. 7 and written statement respectively along with the documents. The second party has also submitted his affidavit on 14.02.2012 but in his cross-examination, he has failed to prove that he worked for 240 days in the preceding calendar year. Since then he has been absent and his advocate has stated that the workman is not traceable and is not in his contact.

2. Thus it appears that the second party workman is not willing to prosecute the case.

3. Thus the reference is disposed of in the absence of the evidence of the second party workman with the observation as under: “the action of the management of State Bank of India, Bhavnagar in terminating the services of Shri Lalji Bijalbhai Sumra w.e.f. 18.02.1997 is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 15.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार परिचम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 23/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-41011/103/2011-आईआर (बी-1)]

बी. एस. बिट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 15.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01.01.2018.

[No. L-41011/103/2011-IR (B-I)]

B. S. BISHT, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 24<sup>th</sup> November, 2017

##### Reference: (CGITA) No. 23/2012

The Sr. Divisional Commercial Manager,  
Western Railway,  
Near Chamunda Bridge, Asarwa,  
Ahmedabad (Gujarat)

...First Party

##### V/s

The President,  
Paschim Railway Karmachari Parishad,  
28/B, Narayan Park, Behind Chandkheda Railway Station,  
Sabarmati,  
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri Navin Waghela

For the Second Party : Shri R.S. Sisodia (Union Representative)

#### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/103/2011-IR(B-I) dated 11.01.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

#### SCHEDULE

“Whether the demand of President, Paschim Railway Karmachari Parishad, Ahmedabad for withdrawal of punishment of reduction by two stage below in the same scale of pay for a period of two years with future effect awarded to Shri Hiralal Kori, HBC, Ahmedabad by the management of Sr. Divisional Commercial Manager, Western Railway, Ahmedabad vide their order dated 12.12.2008 is legal and justified? To what relief the workman/union is entitled?”

1. The reference dates back to 11.01.2012. After issuing notices to both the parties, the second party submitted the statement of claim Ex.4 on 20.04.2012 and the first party submitted the written statement Ex. 8 on 18.10.2013. Thereafter, the second party moved an application Ex. 9 for amending the statement of claim but suddenly today on 24.11.2017, Shri R.S. Sisodia, The President, Paschim Railway Karmachari Parishad, 28/B, Narayan Park, Behind Chandkheda Railway Station, Sabarmati, Ahmedabad, who raised this dispute on behalf of the workman union, stated that he does not want to prosecute the reference.

2. Therefore, the reference is finally disposed of as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 16.**—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक अैफ हैदराबाद के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आौद्योगिक विवाद में केन्द्रीय सरकार आौद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 70/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-12012/293/2004-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 16.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 70/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of Hyderabad and their workmen, received by the Central Government on 01.01.2018.

[No. L-12012/293/2004-IR (B-I)]

B. S. BISHT, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 20<sup>th</sup> November, 2017

##### Reference: (CGITA) No. 70/2005

1. The Chief Manager,  
State Bank of Hyderabad,  
Ashram Road Branch,  
Nagindas Chambers, Usmanpura,  
Ahmedabad – 380014
  2. The General Manager,  
State Bank of Hyderabad,  
Head Office, Gunfoundry,  
Hyderabad – 500001
- ...First Party

##### V/s

Smt. Jayaben M. Parekh,  
C/o General Secretary, Gujarat Kamdar Mandal,  
402/403, Shilp II, Near Sales India, Income Tax, Ashram Road,  
Ahmedabad (Gujarat) – 380009

...Second Party

For the First Party : Shri M.J. Shaikh  
For the Second Party : Shri N.R. Mehata

#### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/293/2004-IR(B-I) dated 30.08.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

#### SCHEDULE

“Whether the demand of Smt. Jayaben M. Parekh, Ex-Sweeper at Ashram Road Branch for reinstatement and regularisation of her services by the management of State Bank of Hyderabad, Hyderabad/Ahmedabad is

proper and justified? If so what relief the concerned workman is entitled to and since when, and what directions are necessary in the matter?"

1. The reference dates back to 30.08.2005. The second party work-woman submitted the statement of claim Ex. 6 on 26.02.2009 and the first party submitted the written statement Ex. 8 on 04.02.2010. Since then the second party has not leading evidence. On 21.02.2011, fresh notice Ex. 11 was issued to the second party to appear on 03.05.2011. In response to the notice, the second party work-woman submitted the affidavit Ex. 12 as his evidence but since then the second party work-woman did not turn up for her cross-examination.

2. Thus it appears that the second party work-woman is not willing to prosecute and pursue the matter.

3. Thus the reference is disposed of in the absence of the evidence of the second party work-woman with the observation as under: "the demand of Smt. Jayaben M. Parekh, Ex-Sweeper at Ashram Road Branch for reinstatement and regularisation of her services by the management of State Bank of Hyderabad, Hyderabad/Ahmedabad is improper and unjustified."

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 17.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 21/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-41012/144/2004-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 17.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 21/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01.01.2018.

[No. L-41012/144/2004-IR (B-I)]

B. S. BISHT, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 20<sup>th</sup> November, 2017

**Reference: (CGITA) No. 21/2005**

The Divisional Railway Manager,  
Western Railway,  
DRM Office,  
Ahmedabad (Gujarat)

...First Party

V/s

The General Secretary,  
Western Railway KamdarSangh,  
S.F.X. 140, Gurunagar,  
Kutch,  
Gandhidham (Gujarat) – 370201

...Second Party

For the First Party : Shri H.R. Raval  
 For the Second Party : None

### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/144/2004-IR(B-I) dated 08.02.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

### SCHEDULE

“Whether the action of the management of Western Railway, Gandhidham in

- i. Imposing the punishment of removal from service on Shri Bhagwat Kumar M, Welder with effect from 27.12.2003 is legal and justified?
- ii. In reducing the above punishment to reduction in next lower time scale at a minimum basic pay for three year with future effect is legal and justified?

And

- iii. Also treating the period from removal to reinstatement as “Diet non” is legal and justified?

If not what relief the workman concerned is entitled to?”

1. The reference dates back to 08.02.2005. The second party workman submitted the statement of claim Ex. 4 on 17.05.2005 and the first party submitted the written statement Ex. 6 on 10.04.2006. Since then the second party union did not lead evidence; however on 05.11.2015, The General Secretary, R.H. Pathan ONG Mazdoor Sangh moved an application Ex. 33 for withdrawal from the reference by 165 workmen named in the application.

2. Since then the second party union has been absent and has not been leading evidence.

Thus it appears that the second party union is not willing to prosecute and pursue the matter. Thus the reference is disposed of in the absence of the evidence of the second party workman with the observation as under:” the action of the management of Western Railway, Gandhidham in

- i. Imposing the punishment of removal from service on Shri Bhagwat Kumar M, Welder with effect from 27.12.2003 is legal and justified.
- ii. In reducing the above punishment to reduction in next lower time scale at a minimum basic pay for three year with future effect is legal and justified.
- iii. And Also treating the period from removal to reinstatement as “Diet non” is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 18.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 355/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-41012/74/2000-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 18.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 355/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01.01.2018.

[No. L-41012/74/2000-IR (B-I)]

B. S. BISHT, Section Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
AHMEDABAD

## Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 1<sup>st</sup> December, 2017

Reference: (CGITA) No. 355/2004

The Divisional Railway Manager,  
Western Railway,  
Pratapnagar,  
Baroda (Gujarat)

...First Party

V/s

Shri Dal Singh P.,  
No. 101, Type – 1, Railway Colony,  
Vatva,  
Ahmedabad (Gujarat)

...Second Party

For the First Party : Shri H.B. Shah  
For the Second Party : Shri A.R. Trivedi

## AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/74/2000-IR(B-I) dated 21.08.2000 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

## SCHEDULE

“Whether the action of the management of Divisional Railway Manager, Western Railway, Baroda is justified in terminating the services of Shri Dal Singh P., vide order dated 26.07.1999? If not, what relief the concerned workman is entitled to?”

1. The reference dates back to 21.08.2000. The second party submitted the statement of claim Ex. 5 alleging that he had been serving as Diesel Khalasi as Diesel Shed Vatva since 1976 as a permanent employee for last 23 years. He was issued a notice dated 29.09.1997 by the first party without considering the fact that the same department enquiry was initiated against him for a misconduct of long absence. He attended the department enquiry. He was illiterate but the enquiry office and other officials did not guide him. Thus the enquiry was vitiated as being violation of principles of natural justice. He has further alleged that the charge of long absence may be correct but the imposed punishment was too harsh and requires interference of the tribunal. Therefore, he has requested for reinstatement with back wages.

2. The first party submitted the written statement Ex. 8 denying the allegations made in the statement of claim and submitted that sufficient opportunities were given to the workman in the department enquiry. He attended the enquiry and after hearing him, the punishment was imposed.

3. On the basis of the pleadings, the following issues arise:

- i. Whether the action of the management of Divisional Railway Manager, Western Railway, Baroda is justified in terminating the services of Shri Dal Singh P., vide order dated 26.07.1999?
- ii. If not, to what relief, if any, the concerned workman is entitled?

4. **Issue No. I :** The burden to prove this issue was lying on the second party workman who submitted the affidavit Ex. 11 reiterating the averments made in the statement of claim. He has admitted in his cross-examination that he used to remain absent from duty and he had been absent since 27.09.1997, therefore, he was given charge-sheet and after enquiry, his services were terminated. He has not submitted any document regarding medical certificates with respect to his illness. He has admitted that he attended the enquiry. He also produced his witnesses in his defence. He has not explained as to how much period, he remained absent from duty and as to why he did not prefer to submit the medical certificate regarding the illness.

5. Thus in the absence of the proper evidence on the part of the workman, I may infer that the impugned order passed by the first party was legal and proper. This issue is decided accordingly.
6. **Issue No. ii :** On the basis of the aforesaid findings, no relief can be granted.
7. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 19.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ सौराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 19/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-12012/165/2005-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 19.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of Saurashtra and their workmen, received by the Central Government on 01.01.2018.

[No. L-12012/165/2005-IR (B-I)]

B. S. BISHT, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 08<sup>th</sup> December, 2017

Reference: (CGITA) No. 19/2007

1. The Chairman,  
State Bank of Saurashtra,  
Head Office, NeelamBaug,  
Bhavnagar (Gujarat)
  2. The Assistant General Manager,  
State Bank of Saurashtra,  
Main Branch,  
Morvi (Gujarat)
- ...First Party

V/s

Mr. Vinod BhikhabhaiMakwana,  
To & PO Pipalia (Sadak),  
Via Ribda, Taluka Gondal,  
Rajkot (Gujarat)

...Second Party

For the First Party : None

For the Second Party : None

## AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/165/2005-IR (B-I) dated 15.01.2007 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

## SCHEDULE

“Whether the action of the management of State Bank of Saurashtra, Morvi Main Branch and the Assistant General Manager, Morvi in terminating the services of Shri Vinodbhai Bhikhhabhai Makwana, orally with effect from 05.02.1995 is legal and justified? If not, what relief the workman concerned is entitled to?”

1. The reference dates back to 15.01.2007. The second party submitted the statement of claim Ex. 9 on 29.01.2009 after a period of 2 years from the date of reference. The first party also submitted the written statement Ex. 13 on 19.04.2011. Since then the second party has been absent and has also not been leading evidence even after giving dozen of opportunities. The tribunal also send a notice Ex. 12 to both the parties to appear on 19.04.2011. In pursuance to the notice, the first party submitted the written statement but the second party did not prefer to appear before the tribunal. On 17.12.2015, the second party was given last opportunity to lead evidence with a direction that if the second party does not appear, the reference shall be disposed of in non-prosecution of the case as per law. Even thereafter, the second party was given half a dozen opportunities for leading evidence but to no result.

2. Thus it appears that second party is not willing to prosecute the case.

3. Thus the reference is disposed of in the absence of the evidence of the second party with the observation as under:”the action of the management of State Bank of Saurashtra, Morvi Main Branch and the Assistant General Manager, Morvi in terminating the services of Shri Vinodbhai Bhikhhabhai Makwana, orally with effect from 05.02.1995 is legal and justified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 20.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधनतंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 468/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-12012/403/2001-आईआर (बी-I)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 20.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 468/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 01.01.2018.

[No. L-12012/403/2001-IR (B-I)]

B. S. BISHT, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

#### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 07<sup>th</sup> December, 2017

Reference: (CGITA) No. 468/2004

1. The Chief General Manager,  
State Bank of India,  
LHO, Bhadra, Ahmedabad (Gujarat) – 380001
  2. The Branch Manager,  
State Bank of India,  
RatanPoli, Patan (Gujarat) – 389151
- ...First Party

**V/s**

Shri Chamangiri Shankargiri Gosai,  
C/o Shri Nalin U. Bhatt, B-2-1, Sardar Patel Chambers,  
Vasant Chawk, Bhadra,  
Ahmedabad (Gujarat)-380001

...Second Party

For the First Party : Shri Bhargav Joshi

For the Second Party : Shri A.L. Shiyyed

#### **AWARD**

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/403/2001-IR(B-I) dated 18.03.2002 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

#### **SCHEDULE**

“Whether the action of the management of State Bank of India, Patan Branch in discontinuing the service of Shri Chamangiri Shankargiri Gosai w.e.f. 01.04.1997 without observing the provisions of Section 25 F, G & H of the Industrial Dispute Act, 1947 is justified? If not, then what relief the concerned workman is entitled?”

1. The reference dates back to 18.03.2002. The second party workman Chamangiri Shankargiri Gosai submitted his statement of claim Ex. 6 on 25.07.2002 while the reference was pending in the Industrial Tribunal, Ahmedabad alleging that he has been serving as Peon cum Messenger in the State Bank of India from some times in 1980 to 01.04.1997. Thus he served for 17 years in continuity with more than 240 days in each and every calendar year and also during preceding 12 months prior to the date of termination of his service. He had been working faithfully, sincerely and with utmost honesty. His service record was very clean and unblemished. He was doing permanent and regular kind of work. He further alleged that he joined as temporary employee and served the first party State Bank of India till 1988 in the same capacity. The first party State Bank of India advertised in all the daily newspapers on 01.05.1991 giving chance to become permanent employee from among the temporary employees who lies in the following categories: (i) Those, who have completed 240 days temporary services in any continuous block of 12 calendar months or less after 01.07.1975, (ii) Those, who have completed 270 days temporary services in any continuous block of 36 calendar months after 01.07.1975 and (iii) Those, who have completed minimum of 30 aggregate temporary services in any calendar year after 01.07.1975 or a minimum of 70 days aggregate temporary service in any continuous block of 36 calendar months after 01.07.1975. He further alleged that being in the aforesaid categories, he was eligible for permanent post, therefore, he applied in pursuance to the advertisement but after interview he was put in the wait list of the selected candidates. He further alleged that number of persons was appointed as permanent employees out of the waiting list but when his turn came, the wait list was declared as lapsed without giving notice or proper reason. Thus he has alleged that he had been denied the opportunity to be appointed as permanent employee and has prayed for appointment as permanent employee with all necessary benefits.

2. The first party Chief General Manager, State Bank of India submitted the written statement Ex. 13 on 10.02.2003 alleging that the second party has submitted the statement of claim with baseless and incorrect facts. The impugned reference suffers from vice of delay and latches as he was lastly engaged in the year 1993 but Industrial Disputes was raised after a lapse of 8 years, thus, the reference is non-maintainable as held by the Hon'ble apex court of India as well as Hon'ble High Courts in number of their decisions. It has been submitted in the written statement that the second party wrongly mentioned the year 1980 as his date of entry as Peon cum Messenger because the records of the bank reveal that he was engaged for 183 days in the year 1980, 77 days in the year 1992 and 86 days in the year 1993 in the Patan Branch of State Bank of India. He was never engaged after July, 1993, therefore, the second party workman has wrongly stated the facts in the statement of claim to mislead the tribunal. He was engaged as Peon cum Messenger as and when the work load appeared to be burdensome but the said workload was not of the permanent nature. It has been further submitted that his work was of the nature of temporary daily wager which starts at the beginning of the day and ends at the end of the day. He was paid Rs. 5942.77/- for 183 days in the year 1990, Rs. 1488.77/- for 77 days in the year 1992 and Rs. 2971.56/- for 86 days engaged and worked in the year 1993. Thus he

never worked for more than 240 days in any aforesaid and any other calendar year as has been falsely claimed by the second party. It is also denied that he was given any artificial break and has ever adopted any unfair labour practice by not giving leave, bonus, provident fund, loan benefits and medical benefits etc. However it is admitted that a common seniority list of all the temporary employee were prepared and the same was in operation till 01.04.1997 being a cut-off date for operation of the waiting list as per the rules and regulation of the bank. The second party was called for interview held on 09.01.1992 for consideration for absorption as permanent employee. The persons who were senior to the second party workman were selected as permanent employee and on 01.04.1997, the said waiting list was lapsed, therefore, the second party workman was being in the waiting list whose turn did not come on 01.04.1997, therefore, he was not offered as a permanent employee. Had he been appointed after 01.04.1997, same shall be called back door entry which is not permitted under any law. Therefore, the prayer sought by the second party workman is not tenable in the eyes of law. The second party workman never worked for more than 240 days in any calendar year, therefore, he cannot be said to be entitled for benefits of Section 25 F, G & H of the Industrial Disputes Act.

3. On the basis of the pleading of both the parties, following issues arise for decision of the reference.

**Issue No. I :** Whether the action of the management of State Bank of India, Patan Branch in discontinuing the service of Shri Chamangiri Shankargiri Gosaiw.e.f. 01.04.1997 without observing the provisions of Section 25 F, G & H of the Industrial Dispute Act, 1947 is justified?

**Issue No. ii :** To what relief, if any, the concerned workman is entitled?

4. Both the issues are inter related and are decided together.

**Issue No. i & ii :** The burden of prove of this issue lies on the second party workman. The second party workman was examined on 21.07.2005 and was cross-examined by the first party on 17.10.2009. The second party workman has reiterated the facts of the statement of claim in his examination but he has failed to prove that he worked for more than 240 days in any calendar year and also failed to prove that he was appointed from 1980 to 1988. He has submitted the documents vide list Ex. 17. In the documents Ex. 17/1, the facts of employment from 01.07.1975 to 31.07.1988 has been typed but shows nil working days, however in the same document from 01.01.1990 to 31.12.1990, the number of working days has been shown as 183 days. The documents Ex. 17/2 to 17/5 are of formal nature being the copies of the notices sent to the Branch Manager, State Bank of India, Patan on 05.05.1991 by registered post. The document Ex. 17/6 is a interview letter issued by the State Bank of India to the second party workman to appear on interview on 09.01.1992. The document Ex. 17/7 reveals that he worked from 21.05.1992 to 31.07.1992 for only 72 days. Similarly in the documents Ex. 17/8 to 17/10 are again formal copy of notices sent to the bank and Ex. 11 and 12 are the acknowledgement and receipt of the notices sent to the State Bank of India. Ex. 13 is the request letter to the Assistant Labour Commissioner for intervention.

5. In rebuttal, the first party State Bank of India examined Govindbhai JethalalMakwana who rebutted the facts of statement of claim as well as the evidence of the second party workman and reiterated the facts stated in the written statement.

6. The second party submitted the written argument Ex. 29 reiterating his claim as per the averments made in the statement of claim.

7. I considered the arguments of the second party workman as well as the evidence, oral and documentary of both the parties.

8. It is noteworthy that the second party workman has failed to prove that he ever worked as Peon cum Messenger from 1982 to 31.12.1989. However it is admitted fact by both the parties that the second party workman worked for 183 days from 01.01.1990 to 31.12.1990 then 72 days from 21.05.1992 to 31.07.1992 and 86 days in 1993 (though 86 days in 1993 are not proved by any documentary evidence).

9. It is also admitted that as per the advertisement in daily newspaper dated 01.05.1991, the second party workman was called for interview to appear on 09.01.1992. He was interviewed and was selected as waitlist candidate. It is also admitted fact that the waitlist lapsed on 01.04.1997, therefore, he was not appointed as a permanent employee. To this facts, the learned counsel for the first party argued that in case the second party workman is given up permanent appointment, it shall be a back door entry which is not permissible within four corners of the law as per the decisions of the Hon'ble Apex Court and Various High Courts of the country.

10. The learned advocate for the second party workman relied on Manager (Factory) Maharashtra State Co-operative Marketing Federation Ltd., V/s Suresh, 2015 (145) FLR 725 SC, wherein the apex court has held that the retrenchment of a daily wager who had worked on the daily wages hardly for 1½ year and his appointment was regular and the appellant unit has been shut down, in such cases award of a lump sum amount of Rs. 200000/- with a cost of Rs. 25000/- is just and proper. Similarly, the apex court in Management of MCB V/s Premchand Gupta, 2000 (84) FLR 364 SC, has held that a temporary employee on a vacant post on 01.10.1964 and terminated on 31.03.1965,

thereafter, re-employed on 01.04.1964 and terminated on 29.04.1966, was not violative of rule 5 but it was definitely violative of Section 25 of the I.D. Act. The apex court in such a case, ordered reinstatement with continuity of service and further consequential benefits expect grant of full back wages.

11. It is admitted fact that the second party workman never worked for more than 240 days in any calendar year, therefore, the question of violation of the provisions of Section 25 F, G & H does not arise. It is also noteworthy that the dispute has been raised after 5 years of his termination as daily wager.

12. Thus in the light of the aforesaid reasons, the second party workman has no case for his appointed as permanent employee. However, the facts of the case indicate that the workman worked for a long period from the year 1980 to 01.04.1997, as admitted by the first party in his written statement 180 days in 1990, 77 days in 1992 and 86 days in 1983 but he was not considered for regularisation and appointment as permanent employee. Thus it is violative of the unlawful labour practice. Thus it would be equitable and just that the second party workman who has served the bank for a longer period of 17 years on need basis as and when arise, be awarded a lump sum amount of Rs. 100000/-.

13. The award is passed accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 21.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 17/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-41011/114/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 21.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01.01.2018.

[No. L-41011/114/2013-IR (B-I)]

B. S. BISHT, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 07<sup>th</sup> December, 2017

**Reference: (CGITA) No. 17/2014**

1. The Divisional Railway Manager,  
Western Railway,  
Pratapnagar,  
Baroda (Gujarat)

2. The Asstt. Divisional Engineer (South),  
Western Railway,  
Bharuch (Gujarat)

...First Party

V/s

The Divisional Secretary,  
 Paschim Railway Karmachari Parishad,  
 Shastri Pole, Kothi,  
 Baroda (Gujarat)

...Second Party

For the First Party : None

For the Second Party : None

### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/114/2013-IR(B-I) dated 12.02.2014 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

### SCHEDULE

“Whether the demand of the Paschim Railway Karmachari Parishad to take Shri Somnath Kesur, Patriwala, Bharuch in service or to give Voluntary Retirement and to make all the pensionary benefits to him is legal, proper and just? If so, to what relief the concerned workman is entitled to?”

1. The reference dates back to 12.02.2014. Despite giving dozen of opportunities to the second party union despite written request Ex. 3 of the second party union on 07.10.2016, the statement of claim has not filed. The reference is approximately 4 years old.

2. Thus it appears that the second party is not willing to prosecute the reference.

3. Thus the reference is disposed of in the absence of the statement of claim of the second party with the observation as under: “the demand of the Paschim Railway Karmachari Parishad to take Shri Somnath Kesur, Patriwala, Bharuch in service or to give Voluntary Retirement and to make all the pensionary benefits to him is illegal, improper and unjust.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 22.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 19/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-41011/125/2010-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 22.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01.01.2018.

[No. L-41011/125/2010-IR (B-I)]

B. S. BISHT, Section Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

**Present :**

Pramod Kumar Chaturvedi,  
 Presiding Officer, CGIT-cum-Labour Court,  
 Ahmedabad,  
 Dated 07<sup>th</sup> December, 2017

## Reference: (CGITA) No. 19/2012

1. The Chief Project Manager,  
Western Railway,  
2<sup>nd</sup> Floor, B.G. Station Building, Kalupur,  
Ahmedabad (Gujarat)
2. The Dy. Chief Engineer (C) BOT,  
Western Railway,  
Divisional Railway Hospital, Sabarmati,  
Ahmedabad (Gujarat) ...First Party

V/s

- The President,  
Paschim Railway Karmachari Parishad,  
28/B, Narayan Park,  
Behind Chandkheda Railway Station, Sabarmati,  
Ahmedabad (Gujarat) ...Second Party
- For the First Party : Shri M.N. Pandit  
For the Second Party : Shri R.S. Sisodiya (Union Representative)

## AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/125/2010-IR(B-I) dated 27.12.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

## SCHEDULE

“Whether the demand of the Union, Paschim Railway Karmachari Parishad, for reinstatement of Shri Hari Kanu, Ex-Safaiwala, in service from the date of his termination i.e. 09.05.1985, with all consequential benefits, is legal and justified? To what relief the union/workman is entitled?”

1. The reference dates back to 27.12.2011. The second party union submitted the statement of claim alleging that the workman Hari Kanu was working initially appointed as Safaiwala in the year 1978 by the first party. Since then he had been working continuously without any break till the year 1985. He worked for more than 240 days in every calendar year but suddenly on 09.05.1985, his services were terminated by the first party without preparing the seniority list and complying the provisions of Section 25 F of the I.D. Act without paying notice pay or retrenchment compensation to the workman which is violative of the provisions of Section 25 H of the I.D. Act. Thus it has been prayed that the workman be reinstated with back wages with all consequential benefits.

2. The first party submitted the written statement Ex. 7 denying the averments made in the statement of claim and submitted that the reference is barred by the limitations as the termination order alleged to have been passed on 09.05.1985 but the dispute was raised on 30.05.2009 after 24 years and the reference had been made after 28 years. The first party has also denied that the workman was ever appointed in 1978. Thus it has been submitted that the reference does not have force and liable to be dismissed.

3. On the basis of the pleadings, the following issues arise:

- i. Whether the demand of the Union, Paschim Railway Karmachari Parishad, for reinstatement of Shri Hari Kanu, Ex-Safaiwala, in service from the date of his termination i.e. 09.05.1985, with all consequential benefits, is legal and justified?
  - ii. To what relief, if any, the union/workman is entitled?
4. **Issue No. i & ii:** Both the issues are interrelated and are to be decided together. The burden to prove these issues is lying on second party who has submitted the affidavit Ex. 8 of the workman Hari Kanu stating that he was appointed on 12.10.1973 as Safaiwala by the first party under The Chief Project Manager, Ahmedabad of first party and worked till 09.05.1985. He became entitled to be given permanent status in the light of the directions issued by the apex court in Inderpal Yadav case under 40% reservation quota but his services were terminated on 09.05.1985 by way of oral order vide oral order dated 11.06.1987. It is also noteworthy that he was also sent for medical examination by Civil Surgeon, Ahmedabad who found him medically fit. He was also not giving employment under dying and harness rules. The workman was cross-examined and stated that he studied up to 5<sup>th</sup> standard. He applied for the job but admittedly stated that he underwent medical treatment for his mental illness and he is still undergoing medical

treatment for his mental disorder. It is noteworthy that he was not able to answer the questions put by the defence counsel and this tribunal closed his cross-examination with an observation that his affidavit appears to be forged because he stated that he put his thumb impression on the affidavit while the affidavit bears his signature. In the light of the aforesaid observations, a person who is suffering with mental disorder cannot be appointed in a government job and secondly the reference has been moved after a period of 28 years and there is no documentary evidence that he would have served the first party for regular 240 days in the preceding calendar year of the order of termination.

5. Thus the reference has no force and in the absence of evidence and a person, who is mentally disordered, cannot be ordered to be reinstated. Thus both these issues are decided in negative and against the second party.

6. The reference is disposed of accordingly.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 23.**—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आौद्योगिक विवाद में केन्द्रीय सरकार आौद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 77/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-41011/113/2012-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 23.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 77/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01.01.2018.

[No. L-41011/113/2012-IR (B-I)]

B. S. BISHT, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

##### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 07<sup>th</sup> December, 2017

**Reference: (CGITA) No. 77/2013**

1. The Divisional Railway Manager,  
Western Railway,  
Pratapnagar,  
Baroda (Gujarat)
2. The Divisional Railway Manager,  
Western Railway,  
Ahmedabad (Gujarat)

...First Party

V/s

The Divisional Secretary,  
Paschim Railway Karmachari Parishad,  
Shastri Pole, Kothi,  
Baroda (Gujarat) ...Second Party

For the First Party : Shri Navin S. Vaghela

For the Second Party : None

## AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/113/2012-IR(B-I) dated 05.04.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

## SCHEDULE

“Whether the action of the Railway Administration through the Divisional Railway Manager, Western Railway, Ahmedabad not paying the family pension to Smt. Taraben, W/o (Late) Balwant Heera is legal, proper and just? If so, to what relief Smt. Taraben is entitled to?”

1. The reference dates back to 05.04.2013. Despite issuing notice to the second party, the second party despite given dozens of opportunities, does not prefer to submit the statement of claim. However, Advocate Shri Navin S. Vaghela filed the vakalatpatra on behalf of the first party. The reference is 4 ½ years old. Thus it appears that the second party is not willing to prosecute the reference.

2. Thus the reference is disposed of in the absence of the statement of claim of the second party with the observation as under: “the action of the Railway Administration through the Divisional Railway Manager, Western Railway, Ahmedabad not paying the family pension to Smt. Taraben, W/o (Late) Balwant Heera is legal, proper and just.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 1 जनवरी, 2018

**का.आ. 24.**—आौद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट आौद्योगिक विवाद में केन्द्रीय सरकार आौद्योगिक अधिकरण एवं श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ संख्या 12/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01.01.2018 को प्राप्त हुआ था।

[सं. एल-41011/101/2013-आईआर (बी-1)]

बी. एस. बिष्ट, अनुभाग अधिकारी

New Delhi, the 1st January, 2018

**S.O. 24.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 12/2014) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the industrial dispute between the management of Western Railway and their workmen, received by the Central Government on 01.01.2018.

[No. L-41011/101/2013-IR (B-I)]

B. S. BISHT, Section Officer

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

#### Present :

Pramod Kumar Chaturvedi,  
Presiding Officer, CGIT-cum-Labour Court,  
Ahmedabad,  
Dated 07<sup>th</sup> December, 2017

#### Reference: (CGITA) No. 12/2014

1. The Sr. Divisional Engineer (Coordination),  
Western Railway,  
Near Chamunda Bridge, Asarwa,  
Ahmedabad (Gujarat)

2. The Chief Medical Superintendent,  
Western Railway,  
Divisional Railway Hospital, Sabarmati,  
Ahmedabad (Gujarat)

...First Party

V/s

The Additional Divisional Secretary,  
Paschim Railway Karmachari Parishad,  
28/B, Narayan Park,  
Behind Chandkheda Railway Station, Sabarmati,  
Ahmedabad (Gujarat)

...Second Party

For the First Party : :

For the Second Party : :

### AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/101/2013-IR(B-I) dated 03.02.2014 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

### SCHEDULE

“Whether the demand of the Additional Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad for treating Shri Daya Bechar, Valve Man as injured on duty (IOD) instead of on sick leave and declaring him unfit and giving job to his son is justified? To what relief the workman is entitled?”

1. The reference dates back to 03.02.2014. Despite service of notice to both the parties, the second party does not prefer to submit the statement of claim despite giving dozen of opportunities and also seeking time for filing statement of claim by the second party union vide application Ex. 3 dated 07.10.2016. The reference is approximately 4 years old. Thus it appears that the second party is not willing to prosecute the reference.

2. Thus the reference is disposed of in the absence of the statement of claim of the second party with the observation as under: “the demand of the Additional Divisional Secretary, Paschim Railway Karmachari Parishad, Ahmedabad for treating Shri Daya Bechar, Valve Man as injured on duty (IOD) instead of on sick leave and declaring him unfit and giving job to his son is unjustified.”

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 2 जनवरी, 2018

**का.आ. 25.**—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 05/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2017 को प्राप्त हुआ था।

[सं. एल-20012/54/2016-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 2nd January, 2018

**S.O. 25.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (Ref. No. 05 of 2017) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 28.12.2017.

[No. L-20012/54/2016-IR (CM-I)]

M. K. SINGH, Section Officer

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT : Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947

REFERENCE NO. 05 OF 2017

**PARTIES** : The Secretary,  
 Jharkhand Janta Mazdoor Union,  
 Vishwakarma Colony, Nutundih PO: Jagjivan Nagar,  
 Dhanbad –

**Vs.**

The General Manager,  
 E.J. Area of M/s BCCL.PO: Bhowra,  
 Dhanbad-828302

Order No.L-20012/54/2016-IR(CM-I) dt. 26.04.2017**APPEARANCES :**

On behalf of the workman/Union : Mr. P. Mandal, Ld. Union Rep.

On behalf of the Management : Mr. D.K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 10<sup>th</sup> November, 2017**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/54/2016-IR (CM-I) dt. 26.04.2017.

**SCHEDULE**

**Whether the action of the Management of Bhowra (S) Colliery of M/s BCCL in terminating the services of Shri Bablu Banerjee without conducting of inquiry in fair and legal manner is legal and justified ,if not, to what relief the workman is entitled to and from which date?**

On receipt of the Order No.L-20012/54/2016-IR(CM-I) dt. 26.04.2017 mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 05 of 2017 was registered on 23.06.2017 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Representative/Ld. Advocate respectively appeared, and contested the case to the extent the case was reserved for Award.

2. This Reference case deals with the workman Bablu Banerjee a permanent employee of Bhowra (S) Colliery under E.J.Area of M/s BCCL had all along been successful keeping his service record unblemished till he fell sick and started absenting from 09.07.2002 though he reported to the Management vide his application dt.10.07.2002 for grant of sick leave as stated by the workman in the WS .After recovery he went to resume the duty ,the Management did not allow him to resume the duty rather went one step ahead informing him of his dismissal from service vide dismissal letter no. 729 dt.03.06.2003.As the workman was under treatment from 09.07.2002 to 20.06.2005 and attributed his sickness for absentism that was beyond his control .Even though the workman had no knowledge of being charge sheeted for the misconduct rather held ex-parte enquiry without giving notice or knowledge of the workman. So the way the enquiry was conducted is not fair,proper at all and in the line of the principle of natural justice nor did the natural justice was followed during the enquiry. The charges levelled against the workman concerned was not proved at any stage and made out based on perverse report for onward submission to the Disciplinary Authority. Though the Disciplinary Authority did not issued Second Show Cause Notice. Ultimately the Project Officer /Agent of Bhowra (S) Colliery under E.J.Area of M/s BCCL Management illegally and arbitrarily

dismissed the workman from service vide dismissal order dated 03.06.2003 throwing workman and his family on the verge of starvation due to illegal dismissal. As workers are worst hit of all, though there is absolute unanimity on the move doubting dismissal being beneficial in the long run to Industrial Relations so the dismissal for committing petty misconduct had shockingly a serious blow and disproportionate Post dismissal the workman did write back an fervent appeal to the Management but to no avail. The Appellate Authority did not dispose of the alleged appeal made by the workman in accordance with the provisions of the Certified Standing Orders. So long as the non-disposal of the appeal apparently a violation under the provision of clause 30 of the said Certified Standing Order, The workman had been subjected to a sort of major penalty for no fault of his. So the alleged action of the Management about dismissal stands not only unjustified but arbitrary and bad in law also, seeking reinstatement into service with full back wages summarily. Therefore the order passed by the Management is illegal, arbitrary and malafide way to victimize the worker. Therefore, The Union claimed “the alleged dismissal was invalid and the relief of reinstatement with full back wages was amply deserved.”

3. Whereas denying all the allegations emphatically brought in by the Sponsoring Union/petitioner, the Management raised question mark over maintainability of Industrial Dispute either in law and facts as neither the Sponsoring Union nor the workman never came up during these long span of time ,i.e. twelve years ,without any explanations but maintaining deep rooted silence and, on that score the Reference does not qualify to stand as Industrial Dispute rather is liable to be rejected summarily nor has the Sponsoring Union locus standi to rise the Industrial Reference, as of now. Management further asserted that the Terms of Reference has been framed without application of mind as the Tribunal is restricted to apply its jurisdiction to decide fairness of the enquiry under Section 11 of the Industrial Dispute Act. So long as the terms of Reference it has been formulated without application of mind, so the Present Reference is not competent for adjudication The dispute is itself is stale one.

Workman Bablu Banerjee started absenting from duty since 09.07.2002 unauthorizably against which he was charge sheeted for his unauthorized absence as well as habitual absentism .Though the workman concerned submitted his reply leading to the Management to constitute the Domestic enquiry under Enquiry Officer to conduct the enquiry in accordance with principle of natural justice and, to ascertain to the extent the workman committed misconduct ,and to offer ample opportunity to the charge sheeted workman to defend himself but deliberately evading for appearance turned the enquiry to declare ex-parte.as the several Notices were served to the workman concerned but he did not bother to turn up giving no alternative but to the Enquiry Officer to declare the enquiry as Ex-parte holding the workman therein guilty of the charges brought against him .Thereafter the Disciplinary Authority issued the 2<sup>nd</sup> Show Cause Notice to the workman along with copy of enquiry report .At last the Disciplinary Authority after having gone through the findings of said enquiry report as well as viewing his past track of service records specially in terms of the thin attendances dismissed him from the services of the Company for proved misconduct. . It is an extreme example of gross negligence on the part of the workman who later on turned habitual absentee that got rooted leading to his dismissal from service. Thus, neither there was any sort of violation of the principle of natural justice, nor did it get mired at any stage as alleged by the petitioner/Union rather the alleged action of dismissal against the workman stands as fair, legal and justified. So long as fairness of the enquiry, if not convinced, the Management stands committed to adducing evidence afresh.

4. It is pertinent to mention that in relation to Group of the Collieries under the Management of M/s BCCL, a part of the Coal India Ltd, cases like absentism hardly get significant where numerous cases on same footing might have been pouring in slowly but steadily and the matter never gets more complicated when the labour forces are involved. Moreover this is not a case of day one or two and has turned a regular feature for the years together because they are sometimes subjected to work beyond safety norms. The surprise removal of the work force to a considerable numbers dealt a severe blow to the sector, a large part of which constitutes production-oriented, which still causes tremendous odds.

The question which now survives for consideration is whether the fact in hand the relief should have been granted .So long as the workman is concerned; there is nothing adverse report against him barring this one. However ,in recent past ,there has been a shift in the stand of the Management that caused a serious blow to the workforce ,this Court has consistently taken the view that relief by way of fresher with no back wages which may not be termed in appropriative in a given fact situation . Though alleged absentism had cost him employment. The punishment of dismissal inflicted upon the workman against the alleged misconduct shielding under the name of penalty appears undeniably to be disproportionate and a harsher one forcing a review in the light of easing out of strain in Industrial relationship. It is also a sharp reminder of the sorry state of affairs going on between Management and its workers. True, occasional hardship may be caused to the BCCL Management but it is to be remembered that more often than not, for greater hardship is certain to be caused to the workman if the relief is denied than to the employer if the relief is granted .At that stage the Tribunal will exercise its discretion keeping in view all the relevant circumstances.

5. The workman concerned who was stripped of his livelihood, needs a little with breather to meet the ends of justice, be provided one more opportunity by offering him fresh appointment in the lowest Grade with two- year probation. Therefore it is ordered that the worker concerned be appointed as fresher in the lowest Cat-I with two-year period on probation since he joins the service ensuring workman's date of birth as per the Service Excerpt under the Management. As for as the back wages is concerned, it does not arise at all.

R. K. SARAN, Presiding Officer

नई दिल्ली, 2 जनवरी, 2018

**का.आ. 26.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 09/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2017 को प्राप्त हुआ था।

[सं. एल-20012/144/2014-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 2nd January, 2018

**S.O. 26.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (Ref. No. 09 of 2015) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 28.12.2017.

[No. L-20012/144/2014-IR (CM-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

**PRESENT :** Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947

#### REFERENCE NO. 09 OF 2015

**PARTIES** : The Lt. Gen. Secretary,  
Bahujan Mazdoor Union,  
Mines Rescue Station,  
PO: Dhansar, Dhanbad -828106

Vs.

The General Manager,  
Kusunda Area of M/s BCCL,  
P.O. Kusunda, Distt: Dhanbad.828116.

Order No.L-20012/144/2014-IR(CM-I) dt. 15.01.2015

#### APPEARANCES :

On behalf of the workman/Union : Mr. R.R. Ram, Ld. Advocate

On behalf of the Management : None

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 6<sup>th</sup> November, 2017

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/144/2014-IR (CM-I) dt. 15.01.2015.

## SCHEDULE

**Whether the action of the Management of Dhansar/ Industry Colliery under Kusunda Area of M/s BCCL in dismissing Shri Suresh Ram, Ex. U/G Trammer from the services w.e.f. 19.09.2005 is fair and justified? To what relief the concerned workman is entitled to?**

On receipt of the Order No. L-20012/144/2014-IR(CM-I) dt. 15.01.2015 mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 09 of 2015 was registered on 27.01.2015 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Though the Union through its own Ld. Advocate appeared, and contested the case to the extent the case was reserved for Award. So long as the OP/ Management it has all along been nil representation since inception of the case.

2. This Reference case of all about of the workman namely Sri Suresh Ram who was a permanent workman of Dhansar/Industry Colliery under Kusunda Area of M/s BCCL being his Pers. No 02983146 was posted as U/G Trammer at Dhansar/Industry Colliery. The workman had been successful in keeping his unblemished service track record with sincerity and punctuality had no compliance for negligence till he had eventually been served with charge- sheet citing absentism as misconduct, thereby asking him to reply within 48 hours .Though workman promptly replied to the said charge-sheet on 23.08.2005 which was found satisfactorily .However, in a twists of the matter, the workman said that he had been absenting from his duty since 29.01.2005 whereas the charge sheet was served to him on 8/09.7.2005 exposing the period of leave the workman remained absence from duty over six months .As the workman got all of a sudden mother's illness in serious nature on 28.01.2005 and he left for his village to look after his sick mother ,suffering from dread disease like Jaundice. He stayed at his native village for some time to provide her all type of nourishment so the workman could not be able to inform to the Management .This was a move that the workman attributed being partly blissful ignorant of the rule and regulations of the said Colliery .After his mother recovery when he approached to the Management Authority to let him resume duty ,Notice of enquiry was summoned to him on 27.07.2005 fixing date of enquiry on 28.07.2005 ,explicitly exposing the barely 24 hours provided to him by violating the principal of natural justice .Moreover the finding of the enquiry was also not made available to the workman .The acting on the advice the Management , workman participated in the said enquiry but flatly denied of being offered opportunity to defend his case .As such the enquiry proceedings stands vitiated itself and the report may not be termed as fair and proper. Ultimately the Management illegally and arbitrarily dismissed him. As workers are worst hit of all, though there is absolute unanimity on the move doubting dismissal being beneficial in the long run to Industrial Relations so the dismissal for committing petty misconduct had shockingly a serious blow and disproportionate Post dismissal the workman did write back an fervent appeal to the Management for reinstatement but to no avail. The Management of Kusunda Area of M/s BCCL bluntly violating the rules & regulations and the principle of the Natural justice dismissed the workman Suresh Ram so the alleged action of the Management is unlawful improper and unjustified and thus, is liable to be set aside, as stated in WS. Therefore, the workman deserves sympathetic consideration from the Court to the extent the referring the matter back to the Tribunal for review over the quantum of penalty.

3. It stands against the contrary that the Management has proved failure to file WS to counter the charges brought in by the Sponsoring Union against the OP/Management despite fresh notice and numerous adjournments availed over the issue. The prolong silence maintained over filing WS drops sufficient hints that the Management did not have objection to the way the case is set to be rolling nor did anything to say.

4. So far the question to Group of the Collieries under the Management of M/s BCCL, a part of the Coal India Ltd., cases like dismissal on absentism ground seldom get significant where numerous cases on same footing might have been pouring in slowly but steadily but need a concrete ways to tackle the issue smoothly till it gets completed .Moreover this is not a case of day one or two and has turned a regular feature for the years together because they are sometimes subjected to work beyond safety norms. The surprise removal of the work force to a considerable numbers dealt a severe blow to the sector, a large part of which constitutes production-oriented, and thereby caused tremendous sufferings to the worker.

So long as the workman is concerned, nothing adverse the workman had throughout his career barring this one. Though alleged absentism had cost him employment and thrown him on the verge of starvation, a bolt on the social fabrication. The punishment of dismissal on ground of absentism inflicted upon the workman against the alleged misconduct shielding under the name of penalty appears undeniably disproportionate and a harsher one forcing for a review in the light of easing out of strain in Industrial relationship. It is also a shark reminder of the sorry state of affairs going on between Management and its workers.

5. The workman concerned who was stripped of his livelihood, needs desperately an opportunity to reform himself to prove to be loyal and disciplined worker by offering him fresh appointment in the lowest Grade with two- year probation. Therefore, it is ordered that the worker concerned be appointed as fresher in the lowest Cat-I with two-year period on probation since he joins the service ensuring workman's date of birth as per the Service Excerpt under the Management, So long as back wages, it does not arise at all .

R. K. SARAN, Presiding Officer

नई दिल्ली, 2 जनवरी, 2018

**का.आ. 27.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 46/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2017 को प्राप्त हुआ था।

[सं. एल-20012/46/2015-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 2nd January, 2018

**S.O. 27.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (Ref. No. 46 of 2015) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 28.12.2017.

[No. L-20012/46/2015-IR (CM-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

**PRESENT :** Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act, 1947

#### REFERENCE NO. 46 OF 2015

**PARTIES** : The Secretary,  
Jharkhand Janta Mazdoor Union,  
Vishwakarma Colony, Nutundih PO: Jagjivan Nagar,  
Dhanbad –826003

Vs.

The General Manager,  
Lodna Area of M/s. BCCL,  
PO: Khas Jeenagora,  
Dhanbad (Jharkhand) 828119

Order No.L-20012/46/2015-IR(CM-I) dt. 19.06.2015

#### APPEARANCES :

On behalf of the workman/Union : Mr. Pintu Mandal, Ld. Representative

On behalf of the Management : Mr S. N. Ghosh, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 14<sup>th</sup> November, 2017

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/46/2015-IR(CM-I) dt. 19.06.2015.

## SCHEDULE

**“Whether the action of the Management of Lodna Colliery of M/s. BCCL in dismissing Shri Balai Bauri from the services of the Company vide order, dated 09.11.2005 is fair and justified? To what relief the concerned workman is entitled to ?”**

On receipt of the Order No. L-20012/46/2015-IR (CM-I) dt. 19.06.2015 mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 46 of 2015 was registered on 30.06.2015 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Representative/Ld. Advocate respectively appeared, and contested the case to the extent the case was reserved for Award.

2. This Reference case as narrated in the WS about the workman Sri Balai Bauri, a M/Loader ,having Personnel No. 000736015 was posted at Lodna Colliery under Lodna Area of M/s. BCCL, a Group of Collieries exclusively based at Dhanbad . He had been very sincere and keeping unblemished service track record till he abruptly became sick on 13.09.2004 and accordingly reported to the Management of his sickness. After recovery from illness when he reported for duty with fitness medical certificate, the Management did not let him join the duty .Though workman attributed his absence to the sickness .The Management issued charge sheet dt. 15.03.2005 to the workman, against which the workman concerned replied promptly. Contrary against it, the Management went one step ahead by referring the matter to the Enquiry Committee to get the matter enquired by an Enquiry Officer and Management Representative asking them go to the bottom of the fact to ascertain to the extent the workman committed misconduct, which the workman cried foul .Since the workman submitted to the alleged charge-sheet stating no misconduct on the part of the workman by referring the Certified Standing Orders, an bye-laws enforced in the BCCL Management. Further the workman alleged that the enquiry conducted did not hold on the line of the principal of the natural justice.

As the absence of was beyond control of the workman and he had little choice to do away, not willful evasion. as it had assumed the impression ,Whereas the issuance of the charge sheet was wrong and ill-motivated and dealt a severe blow with an eye to punish the workman .As such the enquiry proceeding stands vitiated itself and the report could not be termed as fair and proper. Ultimately the Project Officer, Lodna Colliery of M/s BCCL illegally dismissed the workman vide dismissal letter dt. 26, 10.09.11.2005 taking into account of the outcome of perverse findings of the Enquiry Officer. Though the workman concerned cried it foul as no 2<sup>nd</sup> Show Cause Notice was issued to him nor did his misconduct was proved.

Since workers are worst hit of all, though there is absolute unanimity on the move doubting dismissal being beneficial in the long run to Industrial Relations so the dismissal for committing petty misconduct had shockingly a serious blow and disproportionate and excessively harsh. Post dismissal, the workman concerned did write back a mercy appeal to the Appellate Authority of Management to dispose of in accordance with the provision of Certified Standing Orders but to no avail The Management slammed the Union for spilling beams on shortcomings for vested interest. The Management of M/s. BCCL in bluntly violating the rules & regulations and the principle of the Natural justice dismissed the workman. By making this W/Petition the workman want to establish that he is entitled to get lesser punishment than the order of the dismissal which has been passed in the instant case caused tremendous sufferings and threw the workman and his family on the verge of starvation that amounts to capital punishment in service arena for petty misconduct. So the alleged action of the dismissal is unlawful unfair and unjustified and thus, is liable to be set aside with reinstatement with all consequential benefits, as stated in WS.

3. Whereas categorically denying all the allegations brought in by the Sponsoring Union/petitioner, the Management asserted by stating that the workman concerned Ex .M/Loader of Lodna Colliery was framed charge sheet for the misconduct of habitual unauthorized absence from his duties w.e.f. 13.09.2004 against he did not replied. Factually the matter of absentism which turned into regular habit was got enquired by appointing an Enquiry Officer and Management Representative to conduct the enquiry in accordance with principle of natural justice and to ascertain to the extent the workman concerned committed misconduct, and to offer ample opportunity to the charge sheeted to defend himself .Notices to this effect were served to the workman's permanent address by the Registered post asking him for appearing before Enquiry Committee on 10.07.2005, 12.08.2005 and 20.09.2005 but he did not bother to turn up in the proceedings leading the enquiry to declare the ex-part and onwards transmission to the Disciplinary Authority .Thereafter the workman was issued 2<sup>nd</sup> Show-Cause Notice along with copy of the Enquiry Report for submission of written reply but the workman this time too did not comply with the 2<sup>nd</sup> Show-Cause Notice. Ultimately, the Disciplinary Authority by application of mind imposed the punishment of dismissal vide letter

dt.09.11.2005 thereby the workman was provided ample opportunity to come out in his defence but he hopelessly failed to do so.

Since the workman concerned kept on indulging himself in absentism and turned it into habitual practice with no sign of abating in spite of full force with which the Management did its best not to let the efforts go in vain by slapping stoppage of one SPRA in earlier occasion also on the same ground before resumption of duty. Factually the job of the M/Loader in colliery is directly related to the production and long unauthorized absence definitely have adverse impact in a run- up to hit the production ultimately which cannot be substituted anything else . Apart from it, this amounts to suggest gross negligence on workman's part leads to dereliction of duty. So he deserves for it .Thus, neither there was any sort of violation of the principle of natural justice, nor did it get mired at any stage as alleged by the petitioner/Union rather the alleged action of dismissal against the workman stands as fair, legal and justified.

4. In relation to Group of the Collieries under the Management of M/s. BCCL, a part of the Coal India Ltd., cases like this grab headlines since past couple of years where numerous cases on same ground might have been pouring in slowly but steadily and matter gets more complicated when the labour forces are involved .It serves as a stark reminder of the sorry state of affairs of the system fabricated all around the Managements of the collieries. The workmen mostly hailing to illiteracy back ground are usually scared of stepping into the underground Mines due to safety hazards and unhealthy conditions, surrendering in and around the site despite best of safety mechanism/technique in place; however safety related issues have never carved out a permanent niche in the hearts of workers. Workers of the colliery have early adopted safety norms and other safety platforms since they are simple, clean and accurate. Governments too have made every effort to stem usage of safety norms of latest technology in collaboration with their leading Institutions in a bid to facilitate accident free zone and thwart accident or mishap of any kind. The prevailing culture of apathy that gives the situation to turn into a fatal accident in the absence of stringent deterrents tells the story something else.

There is nothing adverse report against the workman barring this one. Though alleged absentism had cost him employment. The punishment of dismissal imposed upon the workman for his alleged misconduct under the name of penalty on ground of absentism appears to be disproportionate and a harsher to bear, and what needs above all, a fresh outlook in view of easing out of strain in Industrial relationship.

5. As far as imposition of penalty as dismissal from service is concerned, having regards to the developments leading the workman post dismissal, and taking into consideration of his apologetic stand, we are of the view that the workman concerned who lost bread and butter in the days of hardship be provided one more last opportunity by offering him fresh appointment in the lowest Grade with two- year probation. Therefore it is ordered that the worker concerned be appointed as fresher in the lowest Cat-I with two-year period on probation subject to fitness of his medical examination and, furnishing an Undertaking by him to the effect " workman service will stand straightway terminated, if he remains absent even for a single day". As for back wages, it does not arise at all.

R. K. SARAN, Presiding Officer

नई दिल्ली, 2 जनवरी, 2018

**का.आ. 28.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार ओद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 76/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2017 को प्राप्त हुआ था।

[सं. एल-20012/67/2012-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 2nd January, 2018

**S.O. 28.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (Ref. No. 76 of 2012) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 28.12.2017.

[No. L-20012/67/2012-IR (C-I)]

M. K. SINGH, Section Officer

**ANNEXURE**

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD**

**PRESENT : Shri R.K.Saran, Presiding Officer**

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947

**REFERENCE NO. 76 OF 2012**

**PARTIES** : The Secretary,  
Rashtriya Colliery Mazdoor Congress,  
Sijua Area –V BCCL, PO: Bansjora: Dhanbad-828101

**Vs.**

The Chief General Manager, (Excavation)  
P.P.Division of M/s. BCCL  
Koyla Bhawan, Koyla Nagar, Dhanbad (Jharkhand) 826305.

**Order No.L-20012/67/2012-IR(C-I) dt. 16.10.2012/18.06.13/28.04.14**

**APPEARANCES :**

On behalf of the workman/Union : Mr. S.C. Gaur, Ld. Advocate

On behalf of the Management : Mr. N.M. Kumar, Ld. Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 01<sup>st</sup> November, 2017

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. **L-20012/67/2012-IR(C-I) dt. 16.10.2012/18.06.13/28.04.14.**

**SCHEDULE**

**“Whether the action of the Management of Sendra Bansjora Workshop of M/s. BCCL in dismissing, Sri Ram Bilas Mishra, Fitter (Excv.) from the services of the Company from 25.07.2002 is legal and justified? To what relief is the workman concerned entitled?”**

On receipt of the Order No.**L-20012/67/2012-IR(C-I) dt. 16.10.2012, subsequently on 18.06.13 and lastly on 28.04.14** mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 76 of 2012 was registered on 30.10.2012 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Ld. Advocates respectively appeared, and contested the case to the extent the case was reserved for Award.

2. This Reference case opens up all about of workman namely Sri Ram Bilas Mishra appointed in the year 1971 had been all along , very sincere, honest and devoted to his duties. He had been successful keeping his unblemished service career that he abruptly received a charge sheet for misconduct on the ground of absence from duty in the year 1998 that he attributed to comprehensive treatment of Tuberculosis at Central Hospital , Dhanbad and other places across the State for getting specialized treatment. So long as the alleged treatment at Dhanbad Central Hospital, the Management had full knowledge of it as referred no other than by the employer itself, i.e. the BCCL Management. the alleged treatment which was turned exhaustive later on and time consuming in nature sometimes take years together to get fully cured from the deadly disease.

As the Tuberculosis patient is supposed to be kept in confinement or isolation even from the family members of patient, usually Doctors attending on him came up with advice that the workman concerned should have continued the treatment till he gets fully cured, as stated in its WS by the petitioner/Sponsoring Union .The absence was beyond the control of the workman and he had little choice to do away with the disease and not willful evasion and

deliberately. The Management had full knowledge of it, as he cried foul of it. So the issuance of the charge sheet was wrong and ill-motivated and dealt a severe blow with an eye to punish the workman. As such the enquiry proceeding stands vitiated itself and the report may not be termed as fair and proper. Ultimately the Management illegally and arbitrarily dismissed the workman w.e.f. 25.07.2002 based on the outcome of perverse findings of the Enquiry Officer. As workers are worst hit of all, though there is absolute unanimity on the move doubting dismissal being beneficial in the long run to Industrial Relations so the dismissal for committing petty misconduct had shockingly a serious blow and disproportionate and excessively harsh. Post dismissal, the workman concerned did write back a fervent appeal to the Management for reinstatement but to no avail. The Management slams the Union for spilling beams on shortcomings for vested interest. The Management of M/s. BCCL in bluntly violating the rules & regulations and the principle of the Natural justice dismissed the workman Ram Bilas Mishra so the alleged act of the dismissal is unlawful unfair and unjustified and thus, is liable to be set aside with reinstatement with full back wages, as stated in WS. By making this W/petition the workman want to establish that he is entitled to get lesser punishment than the order of the dismissal which has been passed in the instant case caused tremendous sufferings.

3. Whereas emphatically denying all the allegations brought in by the Sponsoring Union/petitioner, the Management argued raising question over maintainable of Industrial Dispute either in law and facts as the Sponsoring Union has got no locus-standi to raise the dispute on behalf of the workman concerned even after lapse of 9-10 years of dismissal without any explanation for long span of time. In an admitted fact the Management affirmed that the workman Sri Ram Bilash Mishra was a permanent employee of M/s. BCCL with posting under Sandra Bansjora Workshop as Fitter (Exc.) bearing his Personnel No. 00130383. The concerned workman had started absenting from his duty since 26.11.1994 without any prior information and permission of the Management. Since the aforesaid conduct of the workman was a gross misconduct under clause 26.1.1 of the Certified Standing Order of the Management, thereby deserved for alleged charge-sheet issued on 12.02.1998. Against which the workman could not provide a satisfactory explanation at all, prompting the Management setting up an Enquiry Committee to conduct an enquiry in accordance with principle of natural justice and to ascertain to the extent the workman committed misconduct, and to offer ample opportunity to the charge sheeted workman to defend himself. Accordingly the workman participated in the said enquiry. The Enquiry Officer submitted the report holding therein the workman concerned of guilty of the charges brought against him, thereafter the Disciplinary Authority issued Second Charge-sheet that too also remains unsatisfactory. After taking carefully examination of the Enquiry proceedings, reply of second Show-notice and Enquiry report of the Enquiry Officer, the Disciplinary Authority dismissed the workman concerned vide dismissal letter dated 25.07.2002. It is an extreme example of gross negligence on the part of the workman who turned habitual absentee with times that got rooted leading to his dismissal from service. Thus, neither there was any sort of violation of the principle of natural justice, nor did it get mired at any stage as alleged by the petitioner/Union rather the alleged action of dismissal against the workman stands as fair, legal and justified.

4. In relation to Group of the Collieries under the Management of M/s. BCCL, a part of the Coal India Ltd., cases like this grab headlines since past couple of years where numerous cases on same footing might have been pouring in slowly but steadily and matter gets more complicated when the labour forces are involved. It serves as a stark reminder of the sorry state of affairs of the system fabricated all around the Managements of the collieries. The workmen mostly hailing to illiteracy back ground are usually scared of venturing into the underground Mines due to safety hazards and unhealthy conditions, surrendering in and around the site despite best of safety mechanism/technique in place; however safety related issues have never carved out a permanent niche in the hearts of workers. Workers of the colliery have early adopted safety norms and other safety platforms since they are simple, clean and accurate. Governments too have made every effort to stem usage of safety norms of latest technology in collaboration with their leading Institutions in a bid to facilitate accident free zone and thwart accident or mishap of any kind. The prevailing culture of apathy that gives the situation to turn into a fatal accident in the absence of stringent deterrents tells the story something else.

There is nothing adverse report against the workman barring this one. Though alleged absenteeism had cost him employment. The punishment of dismissal inflicted upon the workman for his alleged misconduct shielding under the name of penalty on ground of absenteeism appears to be disproportionate may be dropped, but what needs above all, a fresh view of easing out of strain in Industrial relationship.

5. The workman concerned who was stripped of his livelihood, needs a little with breather, be provided one more opportunity by offering him fresh appointment in the lowest Grade with two- year probation. Therefore it is ordered that the worker concerned be appointed as fresher in the lowest Cat-I with two-year period on probation by going through the accuracy of his actual date of birth with the Service Excerpt and Statutory Record of Form -B Register of the Colliery before taking him into employment, As far as the back wages, it does not arise at all.

नई दिल्ली, 2 जनवरी, 2018

**का.आ. 29.—**ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स बी.सी.सी.एल. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 80/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28.12.2017 को प्राप्त हुआ था।

[सं. एल-29012/97/2015-आईआर (सीएम-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 2nd January, 2018

**S.O. 29.—**In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (Ref. No. 80 of 2015) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 28.12.2017.

[No. L-29012/97/2015-IR (CM-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

**PRESENT :** Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act, 1947

#### REFERENCE NO. 80 OF 2015

**PARTIES** : The General Secretary,  
Bihar Colliery Kamgar Union,  
Manbad, Jharia,  
PO: Jharia, Dhanbad.-828111

#### Vs.

The General Manager,  
W.J. Area of M/s. BCCL,  
PO: Moonidih, Distt: Dhanbad.-828129

Order No. L-29012/97/2015-IR (CM-I) dt. 12.10.2015

#### APPEARANCES :

On behalf of the workman/Union : Mr. S.N.Ghosh, Ld. Advocate

On behalf of the Management : None

State : Jharkhand

Industry : Mines

Dated, Dhanbad, the 10<sup>th</sup> November, 2017

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-29012/97/2015-IR (CM) dt. 12.10.2015.

#### SCHEDULE

“Whether the action of the Management of Moonidih Project of M/s. BCCL in not providing employment to the dependent son of Late Nimai Chandra Tiwari is fair and justified? To what relief the concerned person is entitled to?”

2. Neither Representative of the Union nor the workman/petitioner concerned is reported to be present on date nor did file the much awaited written statement, an onus resting with the Sponsoring Union way back since 24.02.2016 despite Registered Notice dated 14.08.2017 at the address of the Union referred in the Order itself and no less than ten adjournments already availed by the Union after rolling out as Reference Case. Contrary to it, Mr. D.K.Verma Ld. Advocate registered the made appearance on the part of the Management not for this time but all along. The case relates to denial of employment to the dependent son of the deceased worker- Late Nimai Chandra Tiwari by the Management by challenging the so called alleged action, and thereby seeking relief there under.

On perusal of the case record, it transpires that the case has been pending over filing the WS on the part of the Sponsoring Union against which admittedly numerous adjournments took place since April, 2016, even after taking so many adjournments the case stands crawling over at one stage, with no headway in sight due to non-appearance of the workman nor his Representative. Even though Regd. notice issued to the Central Secretary of the said Union on its address noted in the Reference remained unresponsive either from the side of the Union Representative or that of workman concerned. As such proceedings have abruptly stalled over completion of evidence of workman. The case appears to have lost its merits, as of now. It all signifies that neither the Union nor the workman seems to be willing to go ahead with the adjudication to finality of the case rather appears to be bent upon taking adjournments merely for no motive and show little interest and unwillingness to proceed with hearings of the case. On this count, it has been viewed not to be a mute spectator to let the situation crawl for a long spell of time rather pushing it for final closure in the line of the principle of natural interest on presumption of non-existent of issue in real sense. So the case is wrapped up as "No Industrial Dispute". Accordingly an 'Award of No Dispute' is passed.

R. K. SARAN, Presiding Officer